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THE LAW OF CREMATION

AN OUTLINE OF
THE LAW RELATING TO CREMATION
ANCIENT AND MODERN

TOGETHER WITH THE
*RULES AND REGULATIONS OF VARIOUS
CREMATION SOCIETIES AT HOME
AND ABROAD*

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With the Author's compliments.

PREFACE

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SOME three years ago, at the Medical Society of London, a discussion arose on a paper on the subject of Cremation, read by my father, Dr. Benjamin Ward Richardson, F.R.S., whether a person could determine for himself as to the mode of the disposal of his remains after death, and whether or not such disposal was entirely in the hands of his executors.

At the meeting great uncertainty and difference of opinion prevailed, which led the author of the paper to request me to ascertain if there was any method by which a testator could ensure that his body after death would be disposed of according to his own wishes.

The question thus opened widened under inquiry, and I was led therefore to collect information from various authorities in Foreign Countries, all of whom

replied to me with a fulness and courtesy for which I cannot be too grateful. The result left me in possession of material which I have attempted to bring into brief and convenient form, and which I trust may prove useful to the legal profession and the public generally.

49A LINCOLN'S INN FIELDS,

January 1893.

The Law of Cremation.

PART I.

A N C I E N T L A W.

IN his exhaustive work, “*La Crémation et ses Bienfaits*,” Monsieur Alexandre Bonneau points out that the history of cremation may be divided into three epochs :
1. The Vedic period, during which the practice spread among all the branches of the Aryan race ; 2. The Brahmanic period, that was signalised by the erection of pyres in all parts of India ; and 3. The Buddhistic period, when the custom spread to all the peoples of the Turanian race (*i.e.*, the non-Aryan and non-Iranian¹ races), even to the shores of the Pacific Ocean and to America.

The primitive Aryans saw that death deprived all living beings of bodily warmth, and so came to regard heat as the principle of life ; they perceived, moreover, that fire is the great purifier, and noted that, while it

¹ One of the earliest great sub-races of the Aryan family that settled in the region now known as Persia.

had power to destroy some forms of matter, upon others it could only work a transformation. These observations led them to place the bodies of their dead before a fire, and to supplicate Agni—the Life-Giver—to re-animate and purify them. At last they adopted the practice of consigning them altogether to the flames, in the belief that by that means alone could the body be transformed into spirit.

Concerning the place of abode of the Aryan race before its division into sub-races and dispersion throughout many lands, Professor Max Müller would still have us believe that it was “somewhere in Asia”; but the view of the larger number of the scholars of the day is, that the great plain of Northern Europe, stretching from the Ural Mountains over Northern Germany and the North of France as far as the Atlantic, formed the cradle of the Aryan family. That the custom of cremation prevailed in that region in pre-historic times we know from the evidence of dolmen and tumulus.¹ These ancient altars and tombs are scattered throughout Europe and in parts of Asia and Northern Africa. The accounts of Cæsar, Diodorus of Sicily, and others of the mortuary customs of Gaul and those practised by the Druids, clearly prove that the ancient inhabitants of France and Britain burned their dead; while among the Scandinavians the custom prevailed until the ninth and among the Slavs until the eleventh century. Tacitus gives a description of the crematory process in vogue among the ancient Germans or Goths.² In

¹ “The Origin of the Aryans,” by Isaac Taylor, M.A. “The Contemporary Science Series.”

² “La Crémation et ses Bienfaits.”

course of time all the great nations of the globe came to be in some way influenced by Aryan modes of thought, and cremation was either wholly or partly established in nearly all of them. Only Egypt, Persia, and China resisted the introduction of the practice.

EGYPT.

The strong belief of the Egyptians in personal immortality and their devout expectation of the eventual return of each individual spirit to the "tenement of clay" vacated at death, doubtless led them to ignore the method of sepulture that was not only in vogue in cotemporary European civilisations, but was practised by the Ethiopians and Carthaginians.¹

Monsieur Bonneau, however, shrewdly surmises that scarcity of wood may have had something to do with the staunch adherence of the Egyptians to their inviolable custom of embalming.

PERSIA.

Ostensibly, the cause of Persia's resistance lay in the high reverence paid by the followers of Zoroaster to fire. They would not pollute the Life-Giver by feeding it with decomposing substances. The same pious awe of the universal elements led them to refrain from burying corpses in either earth or water. They had, however, less regard for air. Their practice, originally, was to

¹ See article on Cremation in "Encyclopædia Britannica"; also Account of Death of Elissa (Dido), Foundress of Carthage, in "The History of the World," by Justin.

leave their dead exposed on the bare earth and, later on, in large paved enclosures, or on the summits of high towers, built for the purpose, called "dakhma," where they speedily became the prey of wild beasts and vultures. If a corpse were promptly devoured, it was esteemed a great honour, for it was inferred that a person must have been very bad indeed if even the beasts would not touch him after death. According to Pierre Muret, Parthians, Medes, Iberians, and Caspians had a great horror of the corruption of dead bodies, and their being eaten by worms, and preferred to believe that, when devoured by wild beasts, departed souls enjoyed a partial life in their living sepulchres. It was part of the Zoroastrian faith that, by a wise provision of Nature, all ferocious beasts, wild dogs, and vultures, had been specially endowed with the function of destroying human remains. The fundamental tenet that gave rise to these ideas was that death was highly infectious. It was believed that a corpse was a focus of contagion, and that it must therefore be so disposed of that death might not be spread abroad. On this point the old Indo-European customs were completely changed by Mazdeism.¹ The Indo-Europeans, or Aryans, either burnt their corpses or buried them.² Both customs are held to be sacrilegious in the Zend-Avesta.³ In the

¹ The faith of the Magi, the "wise men of the East," the greatest of whom was Zoroaster.

² See Introduction to the Zend-Avesta, by James Darmesteter, chap. v. p. lxxxix. vol. iv. of Max Müller's "Sacred Books of the East."

³ The Zend-Avesta is the sacred book of the Parsis, embodying the teachings of Zoroaster and the Magi throughout many centuries. See Introduction to the Zend-Avesta, by James Darmesteter, as above.

beginning, however, less obvious though more potent reasons led the followers of Zoroaster to denounce the practice of cremation.

Mazdeism, or Magism, was the professed faith and doctrine of the Magi, and had its origin in Media, though when and how it arose the greatest scholars are unable to say.¹ The teaching of Zoroaster and his followers did much to consolidate it and reduce its theories to hard-and-fast rules of conduct, and there is good reason to believe that, quite as much as religious scruples, political and territorial considerations led the compilers of the *Vendidad*² to put a strict prohibition on cremation.³ "A comparison," writes Monsieur Bonneau, "of the text of the *Zend-Avesta* and the *Rig-Veda*⁴ shows that a deep antagonism existed between the Eastern and Western Aryans; they not only disagreed in religious matters, but were not of one mind in regard to more mundane questions. In point of fact, Zoroaster found his followers among a people much attached to ancient usage, whilst the Aryans

¹ Introduction to the "*Zend-Avesta*," by James Darmesteter, chap. iii. p. 1. Compare *ibid.* Part III. p. xxx. and Part I. p. lxxxix.

² "*The Vendidad*" is a compilation of religious laws and mythical tales included in the first part of the "*Zend-Avesta*." *Ibid.* chap. iii. p. xxx.

³ The Assyrians were cremationists, for their last king, Sardanapalus, having marched with a few undisciplined troops to quell a revolt that his effeminacy had stirred up, and being worsted, raised and set fire to a pile of wood, and threw himself and his riches into the flames. His successor, Arbactus, Lieutenant of Media, translated his kingdom to the Medes. See "*History of the World*," Justin, Book I. chap. iii. See also Herodotus, Valerius Maximus, and others for ancient Scythian method of disposing of their dead kings. Their bodies were carried for a year throughout their dominions and eventually burned.

⁴ Ancient Sacred Hymns of the Brahmins of India.

of the East were the earnest propagandists of the doctrine of cremation, and had even introduced it into one of the countries that Zoroaster desired to bring under his zone of influence. Zoroaster feared lest the next move of these missionaries should be the annexation of the soil, and, in order to erect an impassable barrier against the invaders, the Magi rigorously enforced all ancient and local habits by attributing all innovations to the intervention of the evil one, Angra Mainyu, and the original customs of the inhabitants of the countries they sought to keep under their dominion to the work of the supreme and holy Ruler of All—Ahura Mazda.¹ The laws of the Magi, as set down in the Vendidad, fully bear out this theory.

Vendidad.²—Fargard I. 17 (63).—"The thirteenth of the good lands and countries which I, Ahura Mazda, created, was the strong, holy Kakhra. Thereupon came Angra Mainyu, who is all death, and he counter-created by his witchcraft a sin for which there is no atonement, the burning of corpses."

Fargard VIII. 73 (229).—"O Maker of the material world, thou Holy One! If worshippers of Mazda, walking, or running, or riding, or driving, come upon a corpse-burning fire, whereon a corpse is being cooked or roasted, what shall they do?"

74 (233).—"Ahura Mazda answered: They shall kill the man that burns the corpse; surely they shall

¹ See Introduction to the Zend-Avesta, Part I. chap. v. p. lxxxix. &c.

² Vol. iv. of "The Sacred Books of the East."

kill him. They shall take off the caldron, they shall take off the tripod."

75 (237).—"Then they shall kindle wood from that fire; either wood of those trees that have the seed of fire in them, or bundles of the very wood that was prepared for that fire; and they shall separate and disperse it, that it may die out the sooner."

Fargard VIII.-IX. 81 (251).—"O Maker of the Material World, thou Holy One! If a man bring a corpse-burning fire to the *Dâityô-gâtu*, what shall be his reward when his soul has parted with his body? Ahura-Mazda answered: His reward shall be the same as if he had, here below, brought ten thousand firebrands to the *Dâityô-gâtu*."

The "*Dâityô-gâtu*" is the everlasting fire, always kept alight where Parsis are settled.¹ It is called the Bahrân fire, and is continually fed with perfumes and dry woods. Whichever side its flames are blown by the wind, it kills thousands and thousands of fiends as Bahrân does in heaven. If the necessities of life oblige Parsis to employ fire for profane uses, it must only be for a time as an exile on the hearth or in the oven of the potter. It must go thence to the Right Place of the fire (*Dâityô-gâtu*) the altar of the Bahrân fire, there to be restored to the dignity and rights of its nature. No gratuitous or wanton degradation must be inflicted on it—even blowing it with the breath is a crime; burning the dead is the most heinous of crimes; in the times of Strabo it was a capital crime (Strabo,

¹ Introduction to the Zend-Avesta, vol. i. chap. v. pp. lxxxix. &c.

xv. 14), and the Avesta expresses the same when putting it in the number of sins for which there is no atonement: "Not less holy was the earth, or at least it became so. . . . Burying the dead is like burning the dead, a deed for which there is no atonement. It was not always so in Persia: the burning of the dead had been forbidden for years, while the burying was still general."

Of all the Iranian peoples, the Medes were the earliest to rise to a high state of civilisation and to give to religion and worship a systematic and elaborate form. And since the statement of Mr. James Darmesteter, that "in religion, as in politics, the best organised power must sooner or later get the upper hand," is borne out in the histories of all creeds and countries, it is easily understood that the long subjugation of Persia to Media, and the subsequent conquest of the Medes by the Persians under Cyrus, only led to the adoption by the Persians of the religious system of the Magi. Mr. Darmesteter tells us that "Cyrus is said to have introduced the Magian priesthood into Persia (Zenophon, *Cyross* VIII. i. 23), which agrees with the legend mentioned by Nikolaus, that it was on the occasion of the miraculous escape of Cræsus that the Persians remembered the old *λογία* of Zoroaster, forbidding the dead to be burnt."¹ Cyrus, as is well known, condemned Cræsus to perish on the pyre: he would surely not have dared to do so had the custom of burning the dead been given up in his time. Cambyses, too, must have been guided by some well-known usage when he caused the embalmed remains of Pharaoh Amasis and the Princes and

¹ Introduction to the Zend-Avesta, Part I. p. li.

Princesses of his family to be burned at Saïs and Thebes, though Pierre Muret would have us believe that his command was wholly unprecedented. "Cambyses well-nigh made his people to rise in rebellion against him for having caused the body of Amasis, King of Egypt, to be digged out of his Grave and afterwards Burnt with great pomp and ceremony. They openly declared that this was to give a very dangerous example to Posterity ; since instead of being a Conservator (Strabo, l. 15 Cic. l. Tuscul. l. 1) of the laws of the land, which did not allow either of Burials or Burning, he was the first that brake them."¹

We have good evidence that Darius, son of Hystapes, who succeeded to the throne of Cambyses, was even a stronger advocate of cremation than his predecessor. In a message sent by him to the Carthaginians,² whose suzerain, on the grounds that Carthage was a colony of Tyre, he pretended to be, Darius forbade the Carthaginians thenceforward to sacrifice human victims or to eat the flesh of dogs, and he ordered them to *burn instead of bury* their dead.

It is indeed certain that Darius could not have been a Zoroastrian according to the later faith of the Vendidad. The cuneiform inscriptions of his reign bear internal evidence that they were written by one who did not possess the more developed form of Mazdeism. "But allowing," writes Professor Max Müller,³ "that it is not quite fair to reason from such scanty texts, we

¹ Chap. iv. p. 49, "Rites of Funeral, &c."

² "The History of the World," Justin.

³ Introduction to Part III. of the Zend-Avesta, vol. xxxi. p. xxxi. of "Sacred Books."

are met by the positive fact that an important inscription is written on a tomb; and as the burial of the dead was one of the most flagrant violations of the Zarathustrian or Zoroastrian ceremonial law, it is not conceivable that Darius could have been a Zarathustrian according to the later faith. . . . It is not possible that he could have been an isolated schismatic as to such a particular. If he composed the inscriptions as the monarch of another religion than that of the later Avesta, it would seem to prove, either that he was an adherent to a cruder or half-effaced form of Gâthic Zarathustrianism, which had found its way during the long period of its existence westward before the later Zarathustrianism arose in the Western settlements, or else that it, the religion of the Inscriptions, simply originated where we find it, from an original and widespread Mazda-worship, which had not yet forbidden the burial of the dead." In a foot-note Mr. Max Müller adds: "And perhaps it had also not forbidden cremation. Geiger (see the 'Civilisation of the Eastern Iranians in Ancient Times') conjectures that the *dakhma* were originally places for cremation. If this is a correct surmise, both burial and cremation may have been permitted at the Gâthic period, being forbidden long after. At least the original Mazda-worship did not recoil from cremation; otherwise, the story of the attempt to burn the Lydian Cræsus could not have arisen. The earlier Persians had no abhorrence of either burial or burning. Only the developed Zarathustrian Magism of the Medes obeyed the Vendidad."

Yet even at that early day Magism was becoming a power in the land. The same Darius who enjoined the

cremation of royal mummies, and wrote inscriptions upon tombs, tried, in the second half of his long reign to enter into an arrangement with the religious authorities for the promotion of a spirit of unity throughout his domains.¹ He accepted Mazdeism, after having induced the Magi to ordain certain important reforms. Magism thus became the State religion, and the exposure of corpses the obligatory funeral rite throughout Persia.

CHINA.

Later on in the world's history, China became partially influenced by Buddhism, and adopted the custom of cremation in common with many other Aryan habits.² But the Chinese are a conservative people, and the ancient usage of burial has ever been more generally favoured than what is to them the comparatively modern practice of incineration.

INDIA.

In no other country of the world has the ancient Aryan practice of incineration of the dead, with its ever-increasing multiplicity of rites and ceremonies, been so persistently adhered to throughout the centuries as in India. There the custom has been followed with unbroken continuity from prehistoric periods until the present day. As a natural consequence, it has become inextricably allied to the fundamental laws of Hindu social and family life. It is a frequently disputed question, whether the laws and usages of Hindu society

¹ "La Crémation et ses Bienfaits," by A. Bonneau.

² Ibid.

are founded solely on the elaborate codes of the Rig-Veda and the laws of Manu, or whether different authorities obtain in different parts of India. The earlier European exponents of native law assumed that every rigid Brahmanic doctrine was acknowledged and accepted as incontrovertible law throughout the length and breadth of Hindustan. They believed that the whole of Indian law was formulated by sages of old, and imposed upon the people of that vast country in the same way that British Acts of Parliament have lately forced new regulations upon them.

Later writers, and especially those who have personally studied the ways and manners of Hindus, and have noted the many differences in extant native customs, have been led to think that ancient and local usages, extending back to a period anterior even to the penetration into India of the Aryan race, form the bases of all Hindu law. Mr. John D. Mayne¹ writes: "My view is that Hindu law is based upon immemorial custom, which existed prior to and independent of Brahmanism. That when the Aryans penetrated into India, they found there a number of usages, either the same as or not wholly unlike their own. . . . That when Brahmanism arose, and the Brahman writers turned their attention to law, they at first simply stated facts as they found them, without attaching to them any religious influence. That the religious element subsequently grew up and entwined itself with the legal conceptions, and then distorted them in three ways: *First*, by attributing a pious purpose to acts of a purely secular nature; *secondly*, by clogging those acts with rules and restric-

¹ "A Treatise on Hindu Law and Usage," by John D. Mayne.

tions suitable to the assumed pious purpose; and *thirdly*, by gradually altering the customs themselves so as to further the special objects of religion or policy favoured by Brahminism."

Mr. Mayne's view in regard to the laws of marriage, inheritance, partition and adoption is perhaps the right one. But Monsieur Bonneau, in his erudite and philosophical work before referred to ("La Crémation et ses Bienfaits"), clearly shows that the custom of burning instead of burying the dead was introduced into India by the Aryan peoples, and obtained its popularity through the influence of Aryan modes of thought. Wherever the Aryans, to whom in prehistoric times fell the task of sowing among the barbaric nations of the globe the seeds of civilisation, established their patriarchal communities, they, as custodians of the elements of spiritual religion, promoted cremation in that place. In India, where they distinguished themselves from the aboriginal populations by the title of "twice-born"—since they considered they were first born of their natural parents, and then acquired regeneration from the due performance of prescribed religious duties—they regarded the burning of the dead as the third birth, whereby the spirit was set free from its fleshly prison and started upon its heavenly career. We read in the "Encyclopædia Britannica" that on the occasion of a cremation the friends of the deceased stood round the pyre as around a natal bed, and commanded his eye to go to the sun, his breath to the wind, his limbs to the earth—the water and plants whence they had been derived. But "as for his unborn part, do thou O Lord (Agni) quicken it with thy heat; let thy flame and thy brightness quicken

it; convey it to the world of the righteous." . . . The doctrine of transmigration was unknown. The circle round the funeral pyre sang with an assurance that their friends went to a state of blessedness and reunion with the loved ones who had gone before." Another account of this ceremony is to be found in the chapter on Death, Funeral Rites, and Ancestor-worship in "Religious Thought and Life in India," by Monier Williams, M.A., C.I.E.:¹ "When a man died, his immediate family, headed by the eldest son or other near relative, formed a procession to a properly prepared place in the Smaśāna, or 'burning ground,' carrying the sacred fires and sacrificial implements. The younger walked first, the elder behind—the men separated from the women—bearing the corpse (the hair and nails of which had been clipped), and leading the sacrificial animal, either a cow or a black she-goat. The remaining relatives followed, with their garments hanging down and their hair dishevelled—the elder in front, the younger behind. When they reached the funeral ground, the son or brother, or other near relative, appointed to perform the ceremony, taking a branch of the Sāmi-tree, sprinkled holy water on the spot excavated and prepared for the pile, and repeated Rig-Veda x. 14, 9: 'Depart (ye evil spirits), slink away from here; the fathers (his departed ancestors) have made for him this place of rest.'

"Then the sacred fires were deposited around the margin of the excavated place, and a heap of firewood was piled up inside the sacrificial ground (antar-vedi). Next, a layer of Kusa grass was spread over the pile

¹ P. 299.

along with the black skin of the goat. Then the clipped hair and the dead body were placed upon it, with the feet towards one of the fires and the head towards the other. Next, the widow was made to lie down on the funeral pile north of the body, along with the bow of her deceased husband, but was not allowed to remain there long. Soon the leader of the funeral called upon her to rise, repeating Rig-Veda x. 18, 8: 'Rise up, O woman, come back to the world of the living; thou art lying by a dead man; come back; come back. Thou hast sufficiently fulfilled the duty of a wife to the husband who formerly wooed thee and took thee by the hand.'

"Next, he (the leader) took the bow. . . . Then he placed the various sacrificial implements and portions of the sacrificial animal in the two hands and in different parts of the body of the corpse. This being done, he kindled the three sacred fires. While the body was burning, portions of hymns of the Rig-Veda were repeated.

"When a dead body was thus burnt the spirit, invested with its incombustible, subtle frame, was supposed to rise along with the smoke to heaven. On the tenth day the bones and ashes of the deceased were gathered together and placed in a plain, undecorated funeral vase. This particular act which in modern times is generally performed on the fourth day, was called *Asthisañcāya* (bone-collection). A hole was excavated, and the vessel placed in it, while Rig-Veda x. 18-10 was repeated: 'Return to thy mother Earth, the widely extended, the Broad, the Auspicious; may she be to thee like a young maiden, soft as wool; may she protect thee from the embrace of the Goddess of Corruption.' Then earth was scattered over the excavation, with repetition of the

twelfth verse of the same hymn. Lastly, a cover was placed over the vase, and the hole was filled up with earth, while the thirteenth verse was repeated: 'I raise up the earth around thee, for a support, placing this cover on thee without causing injury. May the Fathers guard this funeral monument for thee: may Yama establish a habitation for thee there!'"

In process of time some additions to the ancient ceremonial have been made, but none of them are striking, except that of cracking the skull of the deceased when the body is half burnt. The idea is that the soul may not have been able to escape through the aperture at the top of the head, and that the cracking of the skull may open a crevice and facilitate the exit. The necessary blow is dealt with a piece of sacred wood.

In the Institutes of Vishnu,¹ a collection of ancient aphorisms on the sacred laws of India,² we read that "Brâhmanas, Kshatriyas, Vaisyas, and Sûdras, are the four castes, that the first three of these are called twice-born, and that for them the whole number of ceremonies which begin with the impregnation and end with the ceremony of burning the dead body, have to be performed with (the recitation of) Mantras.³ In xix. 6 of the Institutes we read that "those that have carried out a dead relative and burnt his corpse shall walk round the pile from left to right, and then plunge into water, dressed in their clothes." This rule is preceded and followed by many others minutely prescribing the

¹ Translated by Julius Jolly: vol. vii. of "The Sacred Books of the East."

² Introduction, p. ix.

³ II. 1, 2, 3.

methods of purification to be adopted by those who assist at the burning of a dead body.

The book of Manu¹ strictly commands that the cremation of corpses shall take place without the gates of cities, in places specially provided for the purpose. All four castes have the privilege of cremation, but a Brahma (member of the highest or priestly caste) must be carried out by the eastern gate.

Book of Manu, v. 91 : "A student does not break his vow by carrying out (to the place of cremation) his own dead teacher (*akārya*), sub-teacher (*upādhyāya*), father, mother, or Guru."

"92. Let him carry out a dead Sûdra (slave and aboriginal caste) by the southern gate of the town, but (the corpses of) twice-born men, as is proper, by the western, northern, or eastern (gates).

I.e., a Vaisya (husbandman) by the western gate, a Kshatriya (warrior caste) by the northern, and a Brâhmana (priestly) by the eastern."

Virtuous wives were also allowed the honour of cremation.

Book of Manu, v. 167 : "A twice-born man, versed in the sacred law, shall burn a wife of equal caste, who conducts herself thus, and dies before him with (the sacred fires used for) the Agnihotra, and with the sacrificial implements.

"168. Having thus at the funeral given the sacred fire to his wife who dies before him, he may marry again, and again kindle (the fires)."

Only to very young children—such as had not cut

¹ Vol. xxv. of "Sacred Books of the East," edited by Max Müller.

their teeth or were not old enough to have been initiated into the State religion—was the honour of cremation denied.¹

Laws of Manu, v. 68 : “ A child that has died before the completion of its second year, the relatives shall carry out (of the village) decked (with flowers and bury it) in pure ground, without collecting the bones afterwards.

“ 69. Such (a child) shall not be burnt with fire and no libations of water shall be offered it ; leaving it like a (log of) wood in the forest, (the relatives) shall remain impure during three days only.”

In regard to Suttee (or Sāti)—*i.e.*, the immolation of a woman on the funeral pyre of her husband—the early teachings of the Sages are by no means clear.² “ That woman,” says Angiras,³ “ who on the death of her husband ascends the same burning pile with him, is exalted to heaven as equal in virtue to Arundhati, and expiates the sins of three generations on both sides of her husband’s family.” The sum of the doctrines of Angiras is, that “ no other effectual duty is known for virtuous women, at any time after the death of their lords, except casting themselves into the same fire. Vyasa, the reputed author of the Puranas, adopted the same doctrine, and declared that with the widow it rested to redeem by self-sacrifice her husband from torment, and that her reward would be to share his felicity “ as long as fourteen Indras reign.” The Laws of Manu,

¹ “ Asiatic Researches,” vol. vii. p. 242.

² “ Lectures on Hindu Law,” Herbert Cowell, Barrister-at-Law and Tagore Law Professor. See also Colebrooke’s “ Digest,” Book IV. chap. iii.

³ Laws of Manu, i. 34 and 35.

however, nowhere insist upon the practice. Vrihaspati, who considered a wife to be half the body of her husband, declared that, whether she ascended the funeral pile after him or survived for his benefit, she was a faithful wife and violated no duty by refusing to burn. He endeavoured also to set limits to the practice by forbidding the mother of an infant child, or one about to give birth to a child, to ascend the funeral pile. The practice of Sāti is based upon the principle of the entire subjection of the wife, which runs through all Hindu law, custom, and feeling. It was probably due, in the first instance, to the horror of re-marriage, which dates from the time of the code of Manu.¹

In "The Law relating to the Hindu Widows"² we are informed that the obligation to burn was enjoined upon every female except mothers of infant children, pregnant women, young girls, and women who are actually unclean after childbirth or from other cause (Vrihat Naradiya Puran, quoted in the Digest, Bk. IV. chap. iii. sec. i. v. cxxvii.) This exception was admitted in consideration of other lives being at stake, or on account of the extreme youth of the person who was to suffer, for, among the commentators, Raghunandana, in particular, observes: "That if the infant can be nurtured by any other person, then the mother is entitled to follow her deceased husband." It was further held that all the wives of a man are entitled to die with or after him, and the cremation of the husband may be postponed by one day—a serious departure from the

¹ "Lectures on Hindu Law," by Herbert Cowell.

² By Trailokyanath-Mitra, M.A., D.L., Law Lecturer of Presidency College, and Tagore Law Professor.

strict injunction on the subject—to allow the absent wife to come and die with her husband; and facilities were so far afforded for the purpose, that if, on account of any uncleanness, a woman is prevented from dying with her husband, she will be entitled to all the benefit of Sahamarana (literally *dying with her husband*), if she followed her husband within one month after the impurity had ceased. The antiquity of this custom is beyond question. Professor Wilson says: “That it is of long standing, is not to be disputed, and the pundits of India maintain that it was observed in Vedic times and has a direct Vedic origin.” Mr. Colebrooke, in his Essay¹ upon the “Duties of a *Sāti*, or Faithful Widow,” was of opinion that the custom was enjoined by a text of the Rig-Veda, of which he gave the following translation:

Let these women, not to be widowed, good wives adorned with *collyrium*, holding clarified butter, consign themselves to the fire. Immortal, not childless nor husbandless, excellent; let them pass into the fire whose original element is water.” In 1854, in his paper on “The supposed Vaidic authority for the Burning of Hindu Widows,” which was printed in vol. xvi. of the “Journal of the Royal Asiatic Society,” Professor Wilson maintained “that the text of the Rig-Veda, cited as authority for the burning of widows, enjoins the very contrary, and directs them to remain in the world. Professor Wilson has given a literal translation of the whole *sūkta* or hymn, in which this passage occurs. The verse, of which we have already cited Mr. Colebrooke’s translation, is thus rendered by Professor Wilson:

¹ “Asiatic Researches,” vol. iv. p. 213.

“May these women who are not widows, who have good husbands, who are mothers, enter with unguents and clarified butter, without tears, without sorrow; let them first go up into the dwelling.”

“The question,” says Trailokyanath-Mitra,¹ “ultimately settles itself into one of disputed reading; and is one of considerable difficulty. Whether the passage contains any injunctions for the widow to burn may be doubtful, but it is almost certain that the practice was known in Vedic times, for, if Professor Wilson be right in asserting that the Rig-Veda text contains a prohibition against the practice, it is clear that the custom must have been known or observed at the Vedic era.”

The subject of Sahamarana is discussed by Raghunandana in his “Sudditattwa.” It forms the first chapter of that treatise; all the provisions of the law bearing upon this topic are collected there. The chapter opens with a discussion as to whether Sahamarana is lawful. For this purpose, the author first quotes the text of Angira, already quoted, and then cites the following passages from the Mahabharata:

“Those who have slighted their former lords through an evil disposition, or have remained at all times averse from their husbands, if they follow their lords at the proper times in such a mode, are all purified from lust, wrath, fear and avarice.”

He also quotes a well-known passage from the Brahama Purana:

“If her lord die in another country, let the faithful

¹ “The Law relating to the Hindu Widow.”

wife place his sandals on her breast, and, pure, enter the fire."

On these authorities, Raghunandana comes to the conclusion "that the wives of Brahmins and others desirous of enjoying the rewards of their own acts, and of their husbands' acts, are entitled to *sahamarana* and *anumarana*, except women who are pregnant and those who have infant children." The eighth verse of the Rig-Veda is a great bone of contention with the supporters and antagonists of the theory that *Sāti* is enjoined in the Rig-Veda. Some assert it to have been recited to test the resolution of the widow, while others take it to be a strict injunction that widows are not to burn. It runs thus :

"Rise up, woman, come to the world of living beings ; thou sleepest nigh unto the lifeless. Come : thou hast been associated with maternity, through the husband by whom thy hand was formerly taken."

The view that this verse was pronounced as a test of the endurance of the woman already mounted on the funeral pile, is taken by Radhakant Deb of Calcutta in his "Rejoinder to Professor Wilson." He says : "The necessity of giving option appears the more strong when we find it declared that the *Sāti* who retires from the funeral pile after the conclusion of the rites commits a highly sinful act."

Another Hindu authority, Raga,¹ is of opinion that explicit authority for the burning of widows is found in two verses of the "Aukhya Sakha" of the "Taittiriya Sanhita" quoted in the eighty-fourth *anuvaka* of the Narayaniya Upanishad :

¹ Letter in vol. xvii. of the "Journal of the Royal Asiatic Society."

- (1) "Oh, Agni, of all *vratas* thou art the Vratapati, I will observe the vow (*vrata*) of following the husband. Do thou enable me to accomplish it."
- (2) "Here (in this rite) to thee, oh *Agni*, I offer salutation to join the heavenly mansion. I enter into thee ; (wherefore) oh Jatavedah (source of the Vedas), this day, satisfied with the clarified butter (offered by me), inspire me with the courage (for *sahagamana*) and take me to my lord."

Thus we see that for long ages Sāti has been enjoined by Vedic law as something more than a wifely duty. It is esteemed a privilege for a virtuous woman to share with her husband the third birth, and to gain with him, through a veritable Baptism of Fire, freedom from all earthly limitations and perfect purification of body and spirit.

GREECE.

In "Sepulture, its History and Methods, &c.," Mr. Stephen Wickes avers that the more ancient custom of the Greeks was burial. "It is supposed," he writes, "that their subsequent usage of burning was introduced at the siege of Troy,¹ when the great slaughter and the example of the Phrygians determined them to consume the bodies of the slain as the readiest mode of disposing of them."² It must be remembered, however, that there were no records before Homer : the custom of cremation might have been, and probably was, common

¹ Pope's "Homer's Iliad," Books VII. XXII. and XXIV.

² Comp. P. Muret's "Rites of Funeral."

in Greece prior to the great siege. After Homer the manners of the Greeks softened; they ceased to offer human victims, but the rite of cremation survived. Both burial and burning were practised, but the latter was considered the more worthy. In time, when the custom came to be attended with overmuch luxury and pomp, the Spartans dropped it, as not simple enough; and the Laws of Lycurgus permitted burial within the walls of towns.¹ In the Græco-Roman world, children who had not yet got their teeth were excluded from cremation. These prohibitions, whether Greek, Roman, or Hindu, have their origin in the religious sentiments of the Aryan peoples, and they anticipate our later Christian law enjoining the burial of unbaptised infants in unconsecrated ground.

ROME.

In regard to the Romans, Pierre Muret writes: "Their history acquaints us (Herodot. Dion. Herod.) that the former Burials lasted from Romulus (who was the founder of their city) to the tyrannous Dictatorship of *Sylla* (Liv. l. 12), who, having caused the Bones of his Enemy Marius to be digged out of his grave, and fearing that the like affront might be done to him after his Death, he, by an express Law made for that purpose, and many pompous Ceremonies, engaged their People to burn their Dead to Ashes, which were afterwards gathered and shut up in Urnes.² This law was observed until the Empire of the Antonins, who, being

¹ "Rites of Funeral," chap. ii. p. 18.

² Related by Pliny.

Philosophers and Virtuous Princes, could not endure that this kind of cruelty should be any longer exercised upon Humane Bodies, and therefore did abolish the use of Wood piles, and restor'd the former way of Burying."

Whatever may have been the precise cause of the introduction of cremation into Rome, it undeniably became the general custom, and gave rise to a considerable amount of legislation.

Among the Romans, every citizen of the Empire was entitled to be buried in a sepulchre—*i.e.*, the fact of his burial consecrated his place of interment, and made it a grave in perpetuity for his remains. In this sepulchre it was absolutely necessary that a portion of the body of the man to whom it was dedicated should repose. No man, however, was permitted to have more than one sepulchre; so if various parts of a body happened to be interred in different places, only one of those places could be reserved as a perpetual tomb. In the case of a life lost at sea, a cenotaph erected to the memory of the deceased might be regarded as a sepulchre.¹

When the practice of burning the dead became general through the influence of religious principles, a bone or limb of a deceased person, styled the *os exceptum* or *os receptum*, was put aside before cremation, and subsequently entombed with the ashes.²

The worship of the dead, which formed an integral part of the religious system of the Romans, demanded at last that the act of cremation should be accompanied by such elaborate ritual and extravagant social cere-

¹ "Du *Jus Sepulchri* à Rome," by Auguste Benoit. Nancy.

² "Le Droit Funéraire à Rome," by H. Daniel-Lacombe, Docteur en Droit. Paris.

monial that the rulers of the Empire felt called upon to curtail the many religious and family rites that had grown up around the practice. The "trappings of woe" necessitated by the unwritten rules of Roman society were of so sumptuous a character that it was no uncommon occurrence for wealthy families to become pauperised by the death of a single relative.¹ And the libations, wherewith the mourners, gathered round the funeral pyre, toasted the departed spirit on its way to the realms of the blest, were so limitless in quantity that funeral ceremonies sometimes degenerated into drunken orgies. Numa made some efforts to suppress the luxury and display that had become inseparably connected with the attendant rites of cremation. He directed that his own body should be buried.² But his example not having the effect of setting a fashion, more rigorous measures were enforced by the twelve Tables of Justinian. The laws embodied in these Tables had the object of establishing customs at once sanitary and economical:

TABLE X. *Fragment 1.*—"A dead man shall not be buried or cremated within the City."

Fragment 2.—"More than this shall not be done, the wood of a funeral pyre shall not be smoothed with an adze." This enactment was designed to prevent the wasteful expense of providing ornamental and polished woods for the construction of the funeral pyre.

Fragment 5.—"The bones of a dead man shall not be gathered for subsequent funeral rites (except of persons killed in battle)." This rule was added in order that criminals, heretics, and all offenders against national

¹ "La Crémation et ses Bienfaits."

² *Ibid.*

morals and national creeds, should not, after they had been slain by wild beasts or gladiators in the arena, be honoured and apotheosised by the solemn act of cremation.

Fragment 10.—"A funeral pyre or new sepulchre shall not be erected within sixty feet of another man's house."

The twelve Tables further forbade the sprinkling of the funeral pyre with myrrh, perfume, wine, or garlands, and prohibited the erection of altars for burning perfumes.¹

The municipal arrangements at Rome for the provision of cremation for the multitude were based on a system in which order, decency, and economy were duly observed. There was a public *usturina*—a vast enclosure paved with fire-proof stone and containing wood-sheds and shops for the sale of urns. Any one might bring their dead to this place; a separate pyre was raised for each corpse, and the charge was moderate. A columbarium was also provided, in which niches for the disposal of urns were sold at a low price.² Paupers and criminals were usually thrown into wells or pits outside the city walls, but there were also common pyres. Macrobius and Plutarch say that as many as eleven corpses were burnt at a time, and, according to these chroniclers, the corpse of one woman was sometimes joined to those of ten men, in order to quicken combustion, on account of the "inflammable nature of the woman."

The burning, consecration, and deifying of the Emperors at length brought the practice of cremation

¹ De Leg. 22-24.

² "La Crémation et ses Bienfaits."

into disrepute.¹ The adoration of these infamous men attainted the pure worship of Manes (ancestors turned gods), and purification by fire, together with the immortality of the spirit of man, became to be less and less believed in.²

AMERICA.

Under a variety of forms the practice of burning the dead still survives among many of the tribes of American Indians, both in the Northern and Southern Continents.³ There appears also to be little doubt that cremation was practised by the ancient Mexicans, though it was not, as has been supposed, the only mode of disposing of the dead adopted by the Aztecs. Mr. A. F. Bandelier, in his "Report of an Archæological Tour in Mexico," states that "bones of Ancient Aztecs have been exhumed in various parts, and also urns containing ashes and charred human remains."

As the result of his inquiries into the mortuary customs of the ancient dwellers in Mexico, Mr. A. F. Bandelier writes: "Urn-burial I consider as established, but cremation, though not improbable, is not yet absolutely proved to have existed. Should, therefore, cremation not be proved, or should it be established that its practice was coeval with one or the other of the

¹ See Pierre Muret's "Rites of Funeral," chap. iii. p. 34.

² "La Crémation et ses Bienfaits," by A. Bonneau.

³ "Sepulture, its History, Methods, and Sanitary Requisites," by Stephen Wickes, A.M., M.D., published by P. Blakiston, Son and Co., Philadelphia; "Introduction to the Study of Mortuary Customs among the North American Indians," by Dr. H. C. Yarrow, published at the Government Printing Office, Washington.

customs mentioned, there should be at least three different aboriginal modes of disposal of the dead." In opposition to this view, we have the accounts of M. Pierre Muret and Mr. H. H. Bancroft. The latter, in his "History of the Mexican People," tells us, "that the temple to the God of War, erected by the Aztecs on the site of the present city of Mexico, was built in two stories, the upper story being used as a receptacle for the ashes of deceased monarchs and nobles. This statement is borne out by Pierre Muret, who, in his "Rites of Funeral, Ancient and Modern" (p. 106), refers the reader for a description of the ceremonial burning of the Kings of Mexico and Mechuacan to the "History of America," by Barth. de las Casas, and moreover, describes at length some of the modes of burning practised in the ancient civilisations of South America. "Most commonly," he writes, "they buried the Dead; and some of them plac'd them sitting upright in their Graves. . . . Others, after having let the Body lye in the ground for the space of a whole Year, at the end thereof took it up out of the Grave, and paid a Duty or Service to it, which was so much the more ridiculous because it was made up of weeping and laughter. And not to speak of other barbarous ceremonies which attended it, they first began these Obsequies with Songs that contained a relation of the whole life of the Dead, which were oft interrupted with the doleful noise of wailing and lamentations, after which they sate down to eat the Provisions they had brought along with them; and having thus feasted themselves, they rose and danc'd a kind of Jig round the Corps, which they concluded with huge cries, roaring out as loud as ever they could,

stamping their Feet against the ground, and lifting their eyes toward Heaven. At last they burnt the Bones of the deceased, and gave his Head to his Widow or nearest Relation, that they might keep the same as a Relick" (chap. vii. pp. 100-1). And further he writes: "Those among them that consider'd their Physicians as petty Gods, because of their procuring and preserving of health (which of all temporal blessings is the greatest), that they might show them a proportionable honour at their Death, did not Bury them as others, but burnt them publicly with solemn rejoycings; Men and Women confusedly singing and dancing together round about the Fire; and when the Bones were burnt to Ashes every one endeavoured to get some part of them to carry to his own House, which they afterwards drank in wine, as an Antidote against all manner of diseases. Now, though these ashes did, by the Law of the Country, belong to the Relict or other nearest Relations of the Deceased, to the end they might by drinking the same preserve his skill and knowledge in their Family, yet they, for the most part, had much ado to save them from the Rabble, especially if the Physician had been a Person of great repute for curing of diseases: For as every one does naturally love his health, they believing that this was an infallible Remedy to preserve it, we need not admire that they used their utmost endeavour to procure some of these Relicks which they often snatched by force out of the hands of his Kindred and Relations. Neither was this Custom of drinking the Ashes of their dead Physicians so peculiar to the Inhabitants of *Panuco*, for I find that a like Ceremony was commonly us'd in the *Country of Venessuela* at the

death of all manner of persons." (Sep. Hist. Ind.; Acost. Hist. Amer.)¹

ISRAEL.

It is a moot point whether the "very great burning" mentioned in II. Chron. xvi. 14 was an actual cremation of the remains of Asa, or merely the burning of spices by the tomb in which his embalmed body was laid. The special pleaders for cremation profess to find sufficient evidence in the Bible to confirm them in their belief that, at least before the period of the Captivity, partial cremation—*i.e.*, the destruction of the flesh and the preservation of the bones alone for burial—was the original mode of entombment with the Israelites. In I. Samuel xxxi. 10, 11, 12, 13, and II. Samuel xxi. 12, we find the ceremony of burning the body spoken of as a rite in honour of kings. But the practice must have been of short duration, and limited to a few.² The burning of the body of Saul may have been occasioned by the special circumstances of its mutilation. In Amos we read of cremation being strictly applied to those who died from plague. II. Chronicles xxi. 19, and Amos ii. 1, vii., 10, bear out the theory of partial cremation, which is also supported by a law of the Talmud: "The relations of the guilty condemned to death cannot entomb their bones in the family sepulchres until their flesh is consumed."³ There is little

¹ "Rites of Funeral, &c.," by Pierre Muret, p. 104.

² See "La Crémation et ses Bienfaits," by A. Bonneau, and "Sepulture, its History, Methods, &c.," by Stephen Wickes, A.M., M.D., Philadelphia.

³ In the Talmud is recorded a Jewish tradition, that Titus willed that after his death his body should undergo cremation, and his

doubt that during the period of their captivity in Babylon the Jews were influenced by Mazdeism, for there is no evidence to show that any form of cremation was practised by them after their return from captivity.

ISLAM.

Among the Mahommedans, burial has been the invariable rule. Mahomet formed his religion of the scattered fragments of Mazdeism, Judaism, and Christianity; it therefore discouraged burning and promoted interment. Islamism in fact did for a large part of Asia what Christianity subsequently did for Europe.¹

CHRISTENDOM.

No mode of entombment was prescribed by the Founder of the Christian Church, and among His early disciples were those who indignantly scouted the proposition that the destruction of man's physical body could become a bar to his resurrection from the dead.² Tertullian makes use of the following argument: "That which you take to be the death of the flesh is only its retreat. The soul is not alone in retiring; the flesh has also its places of retreat in water, in fires, in birds, and in beasts (which consume the body). The flesh

ashes should be scattered over the surface of the seven seas, that the God of the Jews might not find him and bring him to judgment." Gittin, fol. 56, B, from the "Treasures of the Talmud," by P. J. Hershon.

¹ "La Crémation et ses Bienfaits," by A. Bonneau.

² Ibid.

disappears, but is not lost.”¹ The first adherents of Christianity, not only in Judea, but in Rome, Alexandria, Antioch and Greece, were Jews—that is to say, Jews influenced by Mazdeism and inimical to cremation. But under the Empire of Liberty, which Christianity proclaimed, the faithful followed the mortuary customs of the countries in which they dwelt.

In Egypt, Christians were embalmed. S. Anthony protested against a usage that prevented the observance of the prescription in Genesis iii., and the Christians protested against the acts of violence with which he threatened them; the clergy were divided on the point, and the bishops met to decide upon the question. The result of their conference was a declaration that burial was the best form of sepulture, but in order to conciliate both parties they recommended Christians to bury their dead after having embalmed them. It is probable that the Church proceeded in analogous manner in those countries where cremation was in vogue, advising but not enjoining burial. In the cemeteries of early Christians in Rome, as also in the catacombs, urns have been found enclosing ashes and portions of burned bones. Under the Roman Empire, Christians were cremated in other places besides the capital. Over twenty years since, the late Dr. Schnepf, the Medical Officer of Health for the French Government in Egypt, whilst exploring an ancient subterranean cemetery situated not far from Alexandria, penetrated into a gallery, upon one of the walls of which he found a rectangular Greek cross. He was in the portion of that ancient necropolis reserved for the Christians. In this place Dr. Schnepf

¹ “ La Crémation et ses Bienfaits.”

found a great number of skeletons, but discovered also three urns, one of which contained ashes and small fragments of human bones. Thus, even in Egypt there were Christians who caused themselves to be burnt, and these must have been wealthy persons, for wood is very scarce and very dear in the land of the Pharaohs.¹ It is, however, not to be doubted that the general Christian sentiment ever favoured the idea of burial. In A.D. 312 Constantine ascended the throne, and at the close of the following century cremation was no longer practised in Italy and Greece, though it was some time before it was abandoned in Gaul. As late as the middle of the eighth century cremation was still practised in parts of the kingdom of the Franks, for Pepin-le-Bref, in the name of Chilperic III., published an edict forbidding all persons, under pain of death, to burn the corpses of deceased friends.

Thus we see that it was the influence of religion that prevailed upon the authorities of the nations of Europe to stamp out the practice of burning the dead. But far back in prehistoric ages it had been the religious influences of the times that had made cremation an all but universal custom in those communities that first attained to civilisation and to the apprehension of the spiritual essence of true religion.

¹ "La Crémation et ses Bienfaits."

PART II.

MODERN LAW (FOREIGN).

A SURVEY of the various struggles in which the present-day advocates of cremation have already taken part, and in which many of them are still engaged, affords clear evidence that religious scruples are not the only obstacles in the way of the universal re-adoption of the practice of disposing of the dead by burning. In all countries legal difficulties have had to be faced. It is with the nature of these difficulties, as well as with the different methods by which they have been more or less successfully overcome, that this Part is designed to deal.

The desirability of the re-introduction of cremation into civilised society was first publicly discussed in 1797, France being the scene of the discussion.

FRANCE.

In year V. of the French Republic (1797), Legrand d'Aussy, a Jesuit father and a member of the Institute of France, loudly proclaimed the necessity of substituting cremation for burial. Upon his proposal, the *Aréopage* voted a prize of 1500 francs for the scientific

study of the question.¹ The propositions made by those who competed for this prize all proved abortive. Yet, owing to the fact that the question of incineration was at that time first mooted, the people of France are to be looked upon as the pioneers of modern cremation.

In the same year, the Council of the Five Hundred² appointed a commission to draw up and present to the Legislature, a plan for the re-organisation of the prevailing methods of disposing of the dead. The Bill formulated by the commissioners was read to the Council by Daubermesnil, who had charge of it, on the 21st *Brumaire*, year V. (November 11, 1797). The 5th article ran thus :

“Every individual shall be permitted to burn or bury, in whatever place he shall deem fit, the bodies of relatives dear to him, provided that he conforms to the police regulations and to the laws relating to the public health.”³

The 6th article of the same bill forbade cremation or burial within boundaries of towns or other centres of population; and the 7th article provided that the Republic alone should confer the honour of public mausoleums on those whose services it ought to recognise, and further stipulated that the citizen who gave private burial *should be obliged*, in due season, to plant a tree, suitable to the climate, on the tomb. These

¹ “Modern Cremation,” by Dr. de Piétra Santa, p. 10.

² The Conseil des Cinq-Cents, with the Conseil des Anciens, formed, according to the Constitution of year III. (1795), the legislative body of the day. See “Modern Cremation,” by Dr. de Piétra Santa, p. 10.

³ “La Crémation et ses Bienfaits,” by A. Bonneau, p. 270; “Encyclopédie d’Hygiène,” 1891, vol. iv.

proposals provoked the most violent attacks. The 5th and 6th articles might have passed, for even the opponents of cremation approved the liberty of action they permitted; but the peremptory terms of the 7th article furnished enough good and bad arguments to cause the committee's suggestions to be rejected.

In 1799, Jacques Cambray, the Administrator of the Department of Paris,¹ brought the subject before the administration of the Department of the Seine. Though rather extravagant, Cambray's arguments were based upon hygienic and economic grounds, and therefore proved convincing to those to whom they were addressed. Upon his representations the authorities of the Seine Department issued an order containing the announcement that a crematorium and some columbaria would shortly be erected in a cemetery at Montmartre. Among the provisions of the order are the following:

"Considering that in ancient times the greater number of nations were accustomed to burn their dead, and that this usage was only abolished, or rather fell into disuse, through the influence exercised by religious opinions, it is, according to all advises, advantageous to re-establish the practice, but the power of conforming to this custom shall not do away with the privilege of committing bodies to the earth, as is and has been practised by other peoples. . . ."

This announcement stirred the Government to take some further steps in the matter.²

In year VIII. of the Republic (A.D. 1800) the Minister

¹ And author of "Rapport sur les Sépultures."

² "Encyclopédie d'Hygiène, 1891," vol. iv. p. 61; "La Crémation et ses Bienfaits," by A. Bonneau.

of the Interior (Home Secretary) requested the members of the Institute of France to form a committee to put forward the question: "What should be considered the necessary funeral ceremonies (of cremation), and what regulations should be adopted regarding the place of sepulture?" To this question forty answers were received, but none of them solved it. The greater number condemned cremation on the grounds of the difficulty of carrying it out and the expense of the combustibles. Nobody, however, suggested that the authorities were justified in opposing the practice, and despite the adverse decisions of the Council of the Five Hundred and the many difficulties raised on all hands, Comte Frochot, Prefect of the Police, granted permission to *Citoyenne* Dupré-Geneste to burn the body of her son, aged eight; and further authorised cremation generally, in the following precisely worded order: "The last office performed for human remains is a religious act, the mode of which the authorities cannot prescribe without violating the principle of liberty of opinion."¹

Notwithstanding the explicit terms of Frochot's order, the governmental cataclysms and political changes, that succeeded each other in quick succession, further delayed the establishment of the principle of individual liberty of choice in regard to modes of sepulture. During the Consulate, the method of burial was exactly defined by the decree of the 23rd *Prairial*, year XII. (June 12th, 1804): This decree, issued after Napoleon had concluded a treaty with Pope Pius VII., dealt only

¹ "Modern Crémation," p. 10; "Encyclopédie d'Hygiène," 1891, vol. iv. p. 61.

with modes of burial. No reference was made in it to cremation, but it specified the classes of persons to whom Christian burial might be refused or accorded, provided for the laying out of cemeteries outside the walls of towns, and prohibited burial within the walls of churches or in places of public resort. These enactments continued in force until 1887. For a period of fifty years the question of cremation remained in abeyance. In 1856 some slight stir was created by the appearance in the *Presse* of an article by A. Bonneau, advocating the incineration of human remains. A few other eminent writers, among whom was Georges Sand, also sought to revive the question, but no practical results were arrived at. It was not until 1870-71,¹ when the Franco-Prussian war afforded to the French the sad spectacle of hasty and superficial burial on the field of battle of thousands of decomposing corpses, that certain scientific men endeavoured to persuade the Government to lose no time in applying a process of cremation to the bodies of soldiers killed in war. After the battles of Wörth and Sedan, the French Government, acting in concert with that of Belgium, was constrained to incinerate a great number of the corpses of the soldiers by a chemical process. And this method was resorted to in spite of the fact that three years before, at the "International Congress of Aid to the Wounded," held at Paris, the French had rejected the proposals of some Italians who had proclaimed the advisability of practising cremation on fields of battle. It was at this date that public interest in cremation again revived in

¹ "La Cremation, sa raison d'être, &c.," p. 8; and "Modern Cremation," by Dr. de Piétra Santa, p. 10.

France. Brochures, conferences, the records of learned societies and of the two Academies, correspondence with the Municipal Council of Paris, and articles in reviews and daily papers, promoted an enthusiasm for burial reform. Successive Ministers were memorialised in favour of cremation, but to all representations invariably replied that they could not countenance the practice until they saw it more popular in other countries, and they maintained further that the medico-legal difficulty was an insuperable one. The upholders of cremation were divided into two parties. One of these subsequently formed the nucleus of the *Société Française de Crémation*, which desired the extinction of all sentimental care for the dead, and demanded that not only cremation, but also civil funerals, should be made obligatory. The other party included a number of scientific men, who, while earnestly desiring the revival of the practice on sanitary grounds, admitted the principle enunciated by Comte Frochot, that the disposal of the dead should be regarded as a religious act, and the mode of it be determined by individual choice. In 1874 Monsieur Hérold had occasion to present to the Municipal Council of Paris his report on the proposal to make a cemetery at Méry-sur-Oise. In this report the following sentence is noticeable: "It is not without regret that some members of the Commission have been obliged to relinquish their intention of suggesting an examination of the system of cremation. In their opinion, cremation would not only have the incontestable advantage of simplifying the solution of the material question from the double point of view of salubrity and space, but, far from lessening the respect for the dead,

it would enable due reverence to be more easily paid, and consequently make it more general. The objection that cremation might sometimes permit the traces of crime to be more rapidly effaced is serious, but it is of no great moment, since the reply to it is, that all deceased persons are submitted to a strict examination, which might be made still more rigorous, and that in suspected cases a permit of cremation should always be refused.”¹ The discussion on this report resulted in the formation of a Conference to consider the best process of incineration or any other method of the disposal of the dead conducive of similar results. At the termination of this conference an administrative Commission, composed of municipal councillors and sanitarians was nominated by the Decree of February 15, 1875. This Commission declared the following conditions necessary to the introduction of permissive cremation :

Article I.—The process of incineration or of chemical decomposition ought to insure the transformation of all organic matter without producing any odour, smoke, or deleterious gases.

Article II.—Identity, together with complete and unmixed preservation of all indestructible matter, should be guaranteed.

Article III.—The means chosen should be expeditious and economical.

Article IV.—No obstacle should be placed in the way of the celebration of the religious ceremonies of any sect or denomination.

Before submitting this programme to the Municipal Council, the Administrative Commission consulted the

¹ “La Crémation, sa raison d’être, &c.,” p. 10.

Council of Hygiene, which body, in its sitting on February 25, 1876, came to the following conclusions :

- I. It is not only possible, but easy, to burn corpses without producing odour, smoke, or deleterious gases.
- II. From the point of view of sanitation, incineration may have advantages over burial ; above all, in regard to the conditions under which the latter is practised in the matter of pauper graves (*fosses communes*).
- III. Incineration presents serious difficulties in regard to the investigations of justice (for the tracking of crime).

This report was communicated by the Prefect of the Police to the Municipal Council on March 4, 1876, and the matter subsequently dropped.¹

In the following year (1877), Monsieur Level called for a Conference to inquire into the best method of incineration, on the grounds that "cremation forces itself upon us to-day as a necessity of hygiene and of social economy." His demand drew forth the reports of Monsieur Morin, which bear the dates respectively of June 1879, June 1880, and July 1880. In the first of these, Monsieur Morin proposed the erection of a crematorium in Père Lachaise. "When a measure is salutary and required by the general interest," said he, "an enlightened Administration should not hesitate to adopt it." The second report, which was supported by the majority of the members of the Municipal Council,

¹ "Encyclopédie d'Hygiène," Paris, 1891, vol. iv. p. 68.

called upon the Prefect of the Seine "to summon the Conference energetically demanded by Monsieur A. Cadet."¹ About the time that this report was issued the Prefect of the Seine received two despatches—one from the Minister of Justice, and the other from the Minister of the Interior. The first-named of these two Ministers drew attention to the Decree of Prairial, year XII., concerning burial, and to the Articles 77 of the Civil Code² and 358 of the Penal Code.³ "These legal objections appear to me," said he, "to prevent the authorisation even of experiments." The view of the Minister of the Interior was as decided as that of his colleague. He thought that a fresh law for the modification of the dispositions of existing laws and the authorisation of cremation, even as a mere matter of experiment,⁴ indispensable. Monsieur Morin's third report refuted the Ministerial "impedimenta," and stated that "the Municipal Council of Paris adheres to its former deliberations, and invites the Government to bring forward a law authorising cremation." In the end the Municipality gained its point. On March 21, 1885, the Minister of the Interior declared himself not opposed to the incineration of the *débris* of the dissecting-room, provided that crematories should not be established except as an experiment, and that the arrangements of the crematories should be approved by the Consultative Committee of Hygiene of France; the Council of Hygiene of the Seine having previously expressed approval

¹ Author of "Hygiène, Inhumation, Crémation ou Incinération des Corps."

² "Les Codes Annotés de Sirey," p. 45.

³ *Ibid.* p. 284.

⁴ "La Crémation, sa raison d'être, &c.," p. 11.

of the plan.¹ The Municipal Council had already gone fully into the question of methods, so it was not long before a small crematory for the destruction of human remains, mutilated in the cause of science, was built. In November 1883, Monsieur Casimir-Perrier laid upon the table of the Chamber of Deputies a Bill to provide for permissive cremation. This Bill was not proceeded with; but on March 30, 1885, during the discussion upon the law providing for liberty of choice in regard to the conduct of funerals, Monsieur Blatin proposed an amendment giving to all persons in position to dispose of their worldly belongings by will, *complete option in regard to the burial or burning of their own bodies*. The Chamber of Deputies and the Senate adopted this amendment; and on November 15, 1887, a law containing the following provisions was promulgated:²

*Article 3.*³—Every person of full age, or emancipated minor, of a condition to dispose of his worldly belongings by will, may regulate the nature of his obsequies, and in particular that which concerns the civil or religious character to be given them, and the mode of his entombment. . . . A regulation of the public administration shall determine the conditions applicable to the various methods of entombment. All contravention of the dispositions of this regulation shall be punishable by the penalties set forth in Article 5. . . .

¹ "Encyclopédie d'Hygiène," 1891, p. 69.

² *Ibid.* p. 70.

³ Of the law of November 15, 1887.

Article 5.—Any person who shall give to obsequies a character contrary to the will of the defunct or to the judicial decision, when the deed setting forth the wish of the defunct or the decision of the judge shall have been duly notified to him, shall be punished by the penalties enumerated in Articles 199 and 200 of the Penal Code;¹ except where Article 463 of the said Code² applies.

The special conditions applicable to the different modes of sepulture were subsequently fixed by the Decree in Council, 1889.³ I cite the portions of the Decree that bear on cremation.

“The President of the French Republic, upon the advice of the Minister of the Interior, and in consideration of the law of November 15, 1887, permitting freedom of choice in the matter of funerals, notably Articles 3 and 5 . . . decrees . . .

TITRE III.

(Concerning Incineration.)

Article 16.—No appliance for cremation shall be put into use without an authorisation of the Prefect, accorded upon the advice of the Council of Hygiene.

Article 17.—Every incineration shall be carried out under the supervision of the municipal authorities, and shall be previously authorised by the

¹ “Codes Annotés,” p. 250. ² *Ibid.* p. 324.

³ April 27.

officer of the Civil State in the place of decease, who shall give this authorisation only after approving the following documents:

1. A demand in writing by a member of the family (of the deceased), or of some other person qualified to arrange the funeral. Such demand shall indicate the place where the incineration is to be carried out.

2. A certificate of the doctor attending [deceased] stating that the death is due to natural causes.

3. The report of a 'sworn doctor,'¹ forwarded by the officer of the Civil State verifying the cause of death.

In default of the certificate of the doctor in attendance, the 'sworn doctor' shall hold a summary inquest, the results of which he shall set forth in his report. In any case the authorisation shall not be accorded unless the 'sworn doctor' certifies that death is due to natural causes.

Article 18.—Should it be necessary for the incineration to be carried out in a *commune* other than that in which the death has taken place, it shall be further justified by an authorisation for the transport of bodies, in conformity with Article 4.²

¹ *Médecin assermenté*, literally, "sworn doctor." No identical officer in England; Medical Officer of Health corresponds most nearly—Medical Examiner would be perhaps a better title.

² Article 4.—"Except in the case of transference to the mortuary chamber, as provided for in the following article, the removal of a corpse shall only be effected when authorised by the mayor or

Article 19.—The reception of the corpse and its incineration shall be vouched for by an official report, which shall be transmitted to the proper authorities.

Article 20.—The ashes, even by a provisional order, shall only be deposited in regularly established places of sepulture.

Article 21.—The ashes shall not be disturbed, except by the permission of the municipal authorities.

Article 22.—Any contravention of the decrees regulating the conditions of sepulture contained in Articles 3, 4, 8 (§ 2), 16, 17, 18, 20, and 21, renders offenders liable to penalties provided for in Articles 3 and 5 of the law of November 15, 1887.¹

Article 23.—All dispositions contrary to the decree now in recital are thereby rendered void.”

As yet, Paris is the only French town that has availed itself of the privileges of the decree above cited,² but that city has done its best to remove all difficulties incident to the re-adoption of the practice. The *Préfecture* of the Seine³ has commissioned a special doctor to fulfil the task imposed by Article 3 of the Decree of April 27, 1889. This task consists of determining

sub-prefect, provided that the removal takes place within the limits of the commune or arrondissement (district), and in other cases it shall be authorised by the Prefect of the Department in which the death shall have taken place. The introduction of bodies into France, and their transport to the place of sepulture, shall be authorised by the Minister of the Interior.”

¹ Before cited.

² “*Encyclopédie d'Hygiène*,” 1891, p. 71.

³ Practically, the Corporation of Paris.

the existence of any indications that seem to call for a special inquiry into the cause of death. The Municipality, for its part, has endeavoured to put the new process within reach of every one and has issued a notice giving a full account of all the details to be observed in connection with a cremation. This notice has been forwarded to all the mayors in France, and is given to every person who registers a death. The Municipality has, moreover, fixed 50 francs as the uniform tax to be charged, apart from the price of the urn and all decorative expenses, which vary from 12 to 200 francs, according to the class of funeral decided upon.¹ This tax includes a right to the possession of a niche in the municipal columbarium for five years, but it is only exacted from those who are in a position to pay. For the indigent, everything, including the medical certificate, is free. The Municipality of Paris has also suppressed the charges for the exhumation of all bodies to be eventually taken out of the cemeteries of Paris, in view of their retrospective cremation, and has exempted from the tax of transport all bodies brought from other parts of the country to the crematories of Paris.² Paris is at present the sole French city in possession of a crematorium; but on the 12th of April 1892, the Town Council of Lyons voted the sum of 270,000 francs for the purpose of building a crematory in the public cemetery of that town.³

¹ It must be remembered that in Paris all funerals are conducted by the Municipality at fixed charges, that vary according to the style of funeral adopted.

² "Encyclopédie d'Hygiène," 1891.

³ *Phoenix*, organ of the Union of German-speaking Societies for the Promotion of Burial Reform and Permissive Cremation, No. 5, May 1892.

ITALY.

In the years 1851 and 1857 two eminent *savants*, Professors Moleschott and Coletti, lifted up their voices and denounced the cemeteries of Italy as dangerous to the public health. In 1869 the question of the practicability of incineration was raised at the International Medical Congress at Florence by Professors Coletti and Castiglioni. This Congress next met in 1871 at Rome, when the same question was made an order of the day. On both occasions the following resolution was put and carried by a large majority: "That by every possible means the attempt should be made, in the interests of the laws of hygiene, to obtain legal sanction to the substitution of incineration of corpses for the present system of burial."

The Royal Institute of Science and Literature of Lombardy at once associated itself with the suggested reform, and set aside one of its prizes for the proposer of the most prompt and economical method of cremation, in the carrying out of which due respect should be paid to all civil usages and social *convenances*. Further than this, the Lombard Institute addressed the following declaration to the Legislative Body of the kingdom:¹ "The Lombard Institute being profoundly convinced that the adoption of the process of cremation would mark a stage of progress in the march of civilisation, hopes that the Government will put forth every effort to make Italy the first country to adopt it, and thus to set the example to every other civilised nation."

¹ "La Crémation, sa raison d'être, etc.," by Dr. de Piétra Santa, pp. 20 and 21.

From the time of this declaration the successive stages of the progress of the reform may be easily noted. Dr. de Piétra Santa, in his *brochure*, “La Crémation, sa raison d’être, etc.,” has enumerated them with great exactitude. In 1873, the Italian Senate, upon the proposition of the Professor and Senator Maggiorani, and in spite of the scruples of Minister Lanza, inserted in the Sanitary Code of the kingdom (Article 185, chap. i. titre ix.) a permissive regulation enabling families who had previously obtained the authorisation of the Superior Council of Health to adopt the process of cremation.

In April 1874, a public conference was held at Milan. This meeting, comprising all classes of society, and under the presidency of Professor Polli, invited the Chamber of Deputies to confirm, in its next discussion upon the Sanitary Code (already approved by the Upper House), the optional cremation of corpses, *under the immediate surveillance of the magistrates of the communes*. In September of the same year (1874) the following Article was added to the Sanitary Code :

Article 67.—“The prefect of the province, representing the provincial Council of Health, may permit other modes of burial, of preservation, or of destruction of corpses, including cremation, *in particular cases and for exceptional reasons.*”

In 1877, owing to the representations of Senator Maggiorani and Senator Berti, the Honourable Nicotera, Minister of the Interior (Home Secretary), modified this Article by the issue of a royal decree providing that “for the future the prefect of the province, acting upon the testator’s wishes and in response to the express

demand of the family (of the deceased), shall grant the preliminary authorisation, after having received the consent of the provincial Council of Health."

Upon the publication of this Decree, the Milanese Cremation Society formulated some fixed rules for carrying out the process of cremation, with due regard for payment of proper respect for the dead and the establishment of scientific and civilised methods. These regulations were approved by the Sanitary Council and authorised by the prefectural decrees of October 1, 1878, and April 2, 1880. In 1880, too, the municipalities of Rome, Udine, Padua, Cremona, and Varese, in conjunction with the different local societies, applied themselves to the task of furthering the regular practice of cremation. Thenceforward, the chief aims of the societies were to influence other municipalities and to induce the Government to abolish the tax always charged for the transport of dead bodies, and likewise assessed for the conveyance of human ashes. They sought also to stir up the Government to make proper provision for the consecration of ashes, which were not then protected in the same way that dead bodies were. Further than this, the societies laboured to remove all obstacles to the discovery of foul play and criminal negligence.

But one of the chief hindrances to the progress of cremation in Italy was then—as in England it is now—the inability of a testator to determine the nature of his own funeral. The wishes of the legal representatives were paramount, and, though permitted, cremation could not be carried out if surviving relatives objected. The most prominent case of this overruling of the expressed desires of the deceased was

that of Garibaldi. On September 27, 1877, General Garibaldi, writing from Caprera, sent the following letter to his friend, Dr. Prandina :

“MY DEAR PRANDINA,

“You have been so kind as to undertake the charge of burning my body, and I thank you for so doing.

“On the road that leads northwards from my house to the shore, there is, upon the left hand, about 300 paces distant, a slight decline in the ground, bordered by a wall.

“At that angle a pyre, two metres high, of acacias, lentisk, myrtle, and other aromatic woods, shall be erected. There will be placed on the pyre a little bed of iron, and on this the uncovered bier containing my mortal remains dressed in the red shirt.

“A handful of ashes are to be put in some sort of urn that shall be placed in the spot where the remains of my daughters Rose and Anita rest.

“Always yours,

“G. GARIBALDI.”

Upon the death of Garibaldi, the Minister of the Interior directed Dr. Pini, Secretary of the Cremation Society, to go to Caprera, in company with Dr. Todaro and the Honourable Deputy Signor Crispi,¹ to carry out the wishes of Garibaldi ; but the family and friends of the patriot opposed the plan in the most determined manner, and the three delegates were forced to return to Milan with their mission unfulfilled.² There on the 18th of

¹ Subsequently Prime Minister of Italy.

² “Encyclopédie d’Hygiène,” 1891, p. 64.

June a solemn assemblage was held, which was attended by all the members of the Cremation Society, and by all sorts of political and popular associations. The following resolution was passed :

“The citizens and associations of Milan, convoked in a public assembly by the Cremation Society, demand that the wish expressed by General Garibaldi relative to his mortal remains and ashes shall be strictly respected.”

The day after that on which this public meeting was held, the following resolution was entered upon the minutes of the Cremation Society :

“The Society of Cremation at Milan, the vigilant and scrupulous guardian of all that is done in Italy and elsewhere for the application and diffusion of the hygienic and civil reform that it upholds ;

“Knowing the wish expressed by the living voice of General Garibaldi to the Society’s President, and confirmed in writing to our Associate Dr. Prandina, by which he enjoined in precise terms that his mortal remains should be incinerated ;

“Knowing that, by the last testamentary act of the General, he ordered the incineration of his body, and imposed the scrupulous accomplishment of his design upon his widow ;

“The Society of Cremation deplores the existing non-accomplishment of the immutable wishes of the great departed, who, in decreeing the cremation of his corpse, sanctioned and ennobled the principle of the purification of mortal remains.”

But the Society did not rest satisfied with deploring the non-accomplishment of the General’s wish, but

further determined not to rest until his desires had been carried out. But the injunctions contained in Garibaldi's will, the trust confided to his widow, the agitation stirred up by the Milanese Cremation Society, the influence of political friends, and the force of popular opinion, all proved unavailing in the face of the law of Italy that gave the right of disposal of the body to the nearest legal representatives of the deceased. And for nine more years the law remained unchanged.

In the meantime, on July 9, 1882, the Council of State, having previously provided that the ashes of the dead should be deposited in public cemeteries, and not in houses or private grounds, granted permission to societies, churches, and various public bodies, to preserve the ashes of departed benefactors and others within the walls of institutions and in other appropriate places.

On January 11, 1891, the new Italian Burial Law was passed. In Italy now, as in France, the deceased has the absolute right to determine whether his body shall be burned or buried.¹ The following is the text of the police instructions concerning cremation now in force in Italy: ²

Article 65.—Crematory furnaces must not be erected without the walls of public cemeteries.

Article 66.—The employment of crematory furnaces necessitates the surveillance of the town authorities, and every cremation must be conducted with the permission of the person who holds the

¹ Communicated by Dr. de Piétra Santa, Paris, February 1892.

² *Phoenix*, No. 3, March 1892.

right to the private use of the furnace, or, when the furnace belongs to the community, with the permission of the local authorities.

Article 67.—A cremation can only be permitted by the civil officers of the place of abode of the deceased, on the production of the following documents :

1. (a) A legal extract from the will of the deceased.

(b) In the absence of the above, a written request by the nearest relative, or by a friend if no relatives are living and no objections are raised.

2. A certificate of the attendant doctor setting forth the cause of death, and entirely removing all suspicion of a criminal cause.

Article 68.—In the absence of clause 2 of the preceding Article, and in case of sudden or suspicious death, no antinomy must be laid before the authorities.

Article 69.—If the cremation is to be carried out in another parish than that to which the deceased belonged, then, besides the aforesaid documents, an order of the prefect, permitting the transport of the body, must be obtained.

Article 70.—The body must be deposited in the furnace in the clothes in which it is brought on the bier.

Article 71.—In the following cases, the bier as well as the clothes will be burned :

(a) When the clothes are in a dirty condition.

(b) When it has been employed for a person who has died from an infectious disease.

(c) When, apart from the aforesaid conditions, the family of the defunct desires it.

*Article 72.*¹—In accordance with the cremation regulations, the ashes shall be carefully collected, and, when desired, returned to the relations or friends, or their representatives, enclosed in an urn.

Article 73.—The urn must bear an inscription setting forth the Christian and surname of the person whose ashes are contained in it.

Article 74.—Each urn must contain the ashes of only one person.

Article 75.—The urns must be made of durable material, and must, besides, be shut fast without any opening when they are delivered up; or they may, instead, be placed in the niche of a suitable vault.

Article 76.—The transport of urns that contain cremated ashes is not a transgression of the hygienic precautionary measure that applies to transport of bodies.

Article 77.—Urn containing ashes can, in accordance with Article 59 of the Law for Protection of the Public Health, be placed in vaults or private graves, in churchyards, or in temples, infirmaries, hospitals, or other situations, so long as the place chosen is suitable and is under the supervision of a legally recognised benevolent society, and the situation is chosen and approved by the family and the society.

¹ *Phoenix*, No. 4, April 1892.

At the present time there are over twenty crematoria in active use in Italy, and a very large number of corpses have already been incinerated at the Campo Varano cemetery at Rome.¹

THE GERMAN STATES AND PRUSSIA.

As early as 1854, a Cremation Society was formed in Hamburg, and in 1856 Jacques Grimm began in Germany his propagandism of the principles of cremation.

GOtha.

To the Government of Gotha, however, belongs the honour of having been the first administrative body to authorise the practice of burning the dead. In December 1878, the Gotha crematorium was completed and put into use, the law of the State having already provided for incineration, upon strictly sanitary principles, of the remains of those who in life expressed a wish to be cremated, and whose relatives consented to the operation. Special measures had been also prescribed to prevent the concealment of the evidences of crime.² (See Appendix.)

Five years before the opening of the Gotha crematorium, two scientifically conducted, though unauthor-

¹ *Phoenix*, No. 5, May 1892. Organ of the "Union of German-speaking Societies for promotion of Burial Reform and permissive Cremation." See article on "The Progress of Cremation" in the "Annual Encyclopædia" for 1889.

² "La Crémation, sa raison d'être, &c.," by Dr. de Piétra Santa, p. 35.

ised, cremations had taken place in Germany; the first at Breslau in Silesia, Prussia; the other at Dresden, Saxony.

SAXONY.

After the installation of the Gotha crematorium, the Cremation Society of Dresden—"The Urn"—begged permission to inter the ashes of Dresden citizens, cremated in the furnace at Gotha, in the Dresden cemetery. To this entreaty the State Consistory replied: "The Consistory sees no occasion for making a general regulation in the matter."¹ The Dresden Society continued, however, to base its operations on the fact that cremation was not forbidden by the law of Saxony. At the present time, transportation of bodies for cremation in other countries is permitted when the deceased has, in his will, expressed a desire to be cremated, and when this will has been signed in the presence of a judge or notary, or, in the absence of these, before five witnesses.² Leipzig and Chemnitz have long possessed Cremation Societies. The aim of the Leipzig Society, as set forth in the *Phoenix* for January 1892, is to insure the possibility of cremation for those who desire it for themselves, and to support the means of cremation in other places, until such a time as Leipzig shall have a crematorium of its own. In a meeting of this Society,

¹ "Erde oder Feuer" (Earth or Fire), by Wilhelm Schäffer. Darmstadt. 1890.

² Advertisement of Chemnitz Cremation Society in *Phoenix*, No. 2, February 1892.

held on October 4, 1892,¹ it was decided to petition the Town Council to establish permissive cremation in Leipzig, and to give the Society a site on which to erect a crematorium.

HAMBURG.

Between 1870 and 1880, the question of the advisability of adopting the practice of cremation was brought before the Assembly of Burgesses of Hamburg, on the occasion of the laying out of a new cemetery. The result of the discussion in the Assembly was the appointment, in 1878, of a committee empowered to go to Gotha and study the working of the crematorium there. In 1883, a new Cremation Society was formed. This body addressed a memorial to the Senate, praying for permission to erect a crematorium, and asking for a grant of State land for a site. The memorial was much discussed in the Assembly of Burgesses, and upon two occasions an almost unanimous vote was taken in favour of requesting the Senate to accede to both demands of the Society. As a result of this agitation, the Senate, in 1885, made the announcement that, upon the conditions that the capital for building the crematorium was first raised, and a pledge given by the Society, that only persons dying in Hamburg should be incinerated there, the State would assign a piece of ground for the desired purpose.²

¹ *Phoenix*, No. 11, November 1892.

² Report of the Congress at Gotha of the German-speaking Societies for the promotion of Burial Reform and Permissive Cremation, 1886, p. 40. See also *Phoenix* for July 1892, p. 81.

The crematorium was built, but the limitation of its use to persons dying in Hamburg was soon felt to be a great drawback. The fewer the incinerations, the greater the cost of each particular cremation. For economical reasons, therefore, it was most desirable that many more incinerations, than those that the population of the city of Hamburg afforded, should be effected there. On this account the Assembly of Burgesses, in 1891, petitioned the Senate to reconsider the conditions they had previously made.¹ In a document dated December 21, 1891, the Senate replied to the petition of the burgesses with an emphatic refusal to modify the conditions that had been accepted by the Hamburg Cremation Society. The chief ground of the refusal, so it was stated in the document, was the fear lest the transport of bodies, from places where cremation was not established, might lessen the regard borne by neighbouring States to the free city of Hamburg. This unequivocal refusal called for some reply from the burgesses. They therefore appointed a committee to consider the matter. In May 1892, this committee had arrived at the conclusion that the question ought not to be allowed to rest, but the Senate again appealed to.² The report of the committee wholly opposed the idea of the Society's design causing friction with neighbouring Governments, and stated that between December 14, 1878, and the middle of March 1892, 742 bodies had been burned at Gotha, 335 of which came from outside Gotha, and nearly half of these from Prussia; and the report further went on to say that a fifth of the bodies already burned in

¹ *Phoenix*, No. 2, February 1892.

² *Ibid.* No. 7, July 1892.

the new crematorium of Heidelberg had been brought from Prussia, and no ill-feeling had been excited in either case. The committee also reminded the Senate that it had itself sought the co-operation of the burgesses in the work of legislating for the establishment of cremation, and had thereby given them the right to express their opinion ; wherefore the Senate ought not to circumvent them. The committee concluded its report by suggesting further regulations for determining the cause of death and registering the same.

The Senate is, however, still obdurate, and as the Constitution of Hamburg requires that all laws must receive the consent of both Assembly and Senate, the crematorium still remains closed to all but the deceased townspeople of Hamburg.

PRUSSIA.

Quite recently, the building of a columbarium in one of the Berlin cemeteries has been tacitly permitted, but the State Church prohibits the attendance of a clergyman and the exercise of religious rites at incinerations.¹ A crematorium is used by the city authorities of Berlin for the destruction of the corpses of paupers, unidentified persons, and human remains from dissecting-rooms.² Since the erection of this building, the report of the Berlin magistrates, who compose the Funeral Commission, has been published. As a result of their

¹ Article on "Progress of Cremation" in the *New York Evening Post*, April 9, 1892. See also "Report on the Administration of the Public Cemeteries of Berlin, from April 1, 1890, to March 31, 1891."

² *Phoenix*, No. 3, March 1892.

inquiries, the report states that "the magistrates are of opinion that against partial and permissive cremation, such as the commonalty of Berlin desire, there can be, from a judicial standpoint, no plausible objection."¹

On May 28, 1892, the question whether cremation could not be put on the same footing as earth-burial was asked in the Prussian Parliament. In reply, the Attorney-General (*Ober-Regierungsrath*) Höpker stated that no law prohibiting cremation existed in Prussia, that in the future perhaps regulations for the establishment of the practice of incineration might be drawn up; but that at present there was no need for any legislation on the subject, as no general opinion existed in favour of it. The Minister of Health, (Schönfeld) announced that his department took a neutral attitude towards cremation; and Dr. Renvers, as representative of the Minister of Public Worship, said that, though no Christian doctrine forbade cremation, the practice was repugnant to the ideas of all Christian sects and promoted unbelief. Judge Supper, on behalf of the Minister of Justice, spoke against cremation in the interests of criminal law.

FRANKFORT-ON-THE-MAIN.

In Frankfort the building of a crematorium was forbidden, on account of the existence of a law providing for the erection of a tombstone over the body of every person dying in the State.² The Berlin Ministry, being

¹ *Phoenix*, No. 6, June, 1892.

² Report of the Congress at Gotha, 1886.

appealed to, to remove this technical difficulty, refused to interfere with the existing burial laws, upon the excuse that the custom of cremation was not yet viewed with popular favour. But the Imperial Government intimated that, when cremation was more generally approved, something might be done to legalise it in Frankfort. Up to 1886, this was the only result that the efforts of the Frankfort friends of cremation had achieved. The present state of the cremation question in Frankfort is described in a letter written to the author by Dr. Karl Flesch, a solicitor, and member of the Town Council of Frankfort:¹

“We have no crematorium (in Frankfort), for the Prussian Government has announced that it will forbid cremation. Our Senate has no legislative powers, as we are no longer a self-governing State. Whether the burning of the dead is a matter that falls under the jurisdiction of a Town Council, in the way of local government, is disputed; I think it does, and hope to bring the question before our highest *Verwaltungsgericht* (Court of Queen’s Bench), and get a decision to support my view. The Prussian Minister of the Interior considers himself entitled to forbid the practice of cremation by simply issuing an arbitrary command. No law on the subject exists in Prussia.”

HESSE.

The Frankfort Cremation Society had always drawn a large number of its members from the neighbouring town of Offenbach, in Hesse, and in February 1891

¹ October 1892.

this fact suggested the idea that the Frankfort Cremation Society should build a crematorium in the cemetery at Offenbach. By August of the same year enough money had been subscribed for the purpose. In order that the best possible system should be adopted, the Frankfort Society joined that of Heidelberg, which was about to undertake a similar task, in ascertaining the mode of construction most advisable for them to employ.¹ Klingenstierna's furnace was eventually decided upon, and the crematorium erected. On July 6, 1892, an experimental cremation was carried out in it.² So far, everything transpired according to the wishes of the friends of cremation. But on September 29, 1892, the Town Council³ of Offenbach received a formal communication from the Burghermaster, in his capacity of chief officer of the local police, forbidding the cremation of human remains, and commanding that within ten days the furnace so recently erected should be put into such a condition that it would be impossible to use it for the purpose for which it was built. This order was issued in obedience to the injunction of the Grand Ducal Administration which claimed to take its authority from Article 80 of the District and Provincial Regulations,⁴ and it expressly stated that earth-burial was the only mode of disposing of the dead recognised within the Grand Duchy of Hesse. Further than this, the order contained the announcement that a penalty not exceeding 90 marks would be exacted of any person contravening or not complying with the order. The

¹ *Phoenix*, No. 1, January 1892.

² *Ibid.* No. 8, August 1892.

³ "Stadtverordneten."

⁴ "Kreis-und Provinzialordnung."

document containing these peremptory commands was received by the Town Council at its sitting on September 15, 1892. This body, in its turn, forwarded the order to the committee that had promoted the building of the crematorium, and subjoined a lengthy and detailed statement, in which it was announced that, in the opinion of the Town Council, the order was grounded on an erroneous application of the principles of justice, and was further both "illegal and inadmissible." This statement of the Town Council was drawn up under three heads. In the first place, it was contended that cremation was not forbidden by the laws of the German Empire, nor by those of the Grand Duchy, and that, though burial was enjoined by implication, the burial of ashes after cremation had taken place would fully meet the requirements of that injunction. Secondly, it was urged that only acts endangering the public peace, or those that were in opposition to laws and regulations already established could be included among punishable offences; and thirdly, it was pronounced inadmissible that the police should interfere with actions against which no prohibition existed in law, which were beneficial to the public health, and which it was not proposed to force upon those to whom religious views rendered them objectionable.¹

In Hesse, therefore, the matter rests for the present where these documents leave it. But the question of the legality of cremation is shortly to be brought before the courts of law.²

¹ *Phoenix*, No. 11, November 1892.

² Communication from Dr. Fix, of the "Hess-Landverein for Burial Reform and Permissive Cremation."

WÜRTENBERG.

In the Kingdom of Würtemberg, the question of burning the dead was first raised towards the close of the year 1874, when a Cremation Society was formed. On February 4, 1875, the Town Council¹ subjoined to a memorial presented to that body by the Cremation Society, a statement to the effect that the members of the Council were under the impression that the Society not only desired to obtain permission of the State to establish cremation in the town of Stuttgart, but also wished to be provided with a site for a crematorium as the means of carrying out their purpose. After this the matter came to a standstill, and, in 1882, the Society disbanded.

In the meantime, a Royal Decree, concerning the exposure, dissection, and burial of bodies, issued January 24, 1882, contained the following words: "A dead body must be disposed of only by means of interment in a public burial-ground. For burial in any other place, except a public burial-ground, permission from the Government is necessary."

This order completely shut out the possibility of establishing cremation, until special permission could be obtained from the Government of the Kingdom of Würtemberg. In 1890, another Cremation Society was formed. This gave occasion for bringing the matter once more before the authorities, by means of a petition to the Minister of the Interior praying for permission to build a crematorium.² The Society further requested

¹ "Gemeinderath."

² February 2, 1891. See *Phoenix*, No. 11, November 1892.

the Town Council not to place any obstacles in the way of the establishment of permissive cremation and the erection of a crematorium; whereupon the Council determined to lay the matter before its Police and Cemetery Committees.

The sitting of these Committees for consideration of this question was held on February 12, 1892.

On the motion of a member of the Police Committee,¹ it was agreed that the Council had no objections to the establishment of cremation, provided certain precautions, presently to be determined upon, were observed.

On the motion of Councillor Payer, it was carried, by seven votes to six, that the Council should declare itself in favour of the establishment of cremation in the town of Stuttgart, and inform the Cremation Society of its willingness, in the event of the approval of its project by the State Government, to assign a special place for the erection of a crematorium, and, on account of the Society, to take the same under control of the town authorities.

On the motion of Councillor Baumeister, it was agreed, by ten votes to three, that the Town Council should announce that it had nothing to urge against the establishment of cremation in Stuttgart, but was ready, in the event of the Society's project being approved by the State Government, to appoint a special site for the erection of a crematorium in a public cemetery.²

Up to the present time, no answer to the petition delivered by the Stuttgart Cremation Society to the

¹ "Polizeirath."

² *Phoenix*, No. 4, March 1892.

Minister of the Interior of the Kingdom of Würtemberg has been received, and the Society is quite unable to account for the unusual delay.¹

BADEN.

In the Grand Duchy of Baden, the Government is not inimical to cremation. Mannheim, Baden-Baden, and Heidelberg all possess flourishing cremation societies.² Heidelberg is one of the four German towns (Gotha, Hamburg, and Offenbach being the other three) that possess crematory furnaces.

The Heidelberg crematorium was put into use in December 1891. It stands in a separate part of the town cemetery,³ and, under due police supervision, is equally available for strangers and for the inhabitants of Heidelberg.⁴ (See Appendix.) From December 1891 to the end of October 1892, thirty-six incinerations had taken place in it.⁵ The Baden-Baden Society has recently been instrumental in establishing another Society at Lahr (in Baden),⁶ and in May 1892 the "Friends of Cremation" in Baden were able at their general meeting to congratulate the members of the Society at Mannheim on their recent determination to build a crematorium of their own.⁷ It was agreed that the size of the town of Mannheim and its liberal character were sufficient guarantees that this action would in no way interfere with the success of the Heidelberg crematorium.

¹ *Phoenix*, No. 11, November 1892.

² "Erde oder Feuer?" p. 43, by Wilhelm Schäffer. Darmstadt.

³ *Phoenix*, No. 3, March 1892.

⁴ *Ibid.* No. 2, February 1892.

⁶ *Ibid.* No. 1, January 1892.

⁵ *Ibid.* No. 10, October 1892.

⁷ *Ibid.* No. 6, June 1892.

BAVARIA.

When, in October 1891, the Town Council of Munich, was about to purchase a site for a new cemetery, the Munich Cremation Society put forth the demand that a portion of that cemetery might be reserved for the future building of a crematorium. At the same time, the Society inquired of the magistrates whether any objections could be raised to the depositing of caskets or urns in burial places or family vaults.¹

In their public sitting on January 19, 1892, the Munich magistrates addressed a reply to the Society, of which the following is the substance :

“Concerning your memorial, presented October 29, 1892, we beg to inform you that the reservation of a special site for the building of a crematorium in planning out the new cemetery does not appear to be necessary, as the Town Council has already entered into an arrangement with the commissioners of one of the cemeteries to build a crematorium, and we would state further that, before any more steps can be taken in the matter, the opinion of the Royal Bavarian State Government must be ascertained. On this account, therefore, we leave it in your hands to address a memorial on this question to the Government of the Kingdom.

“What further concerns the depositing of ashes by the sides of bodies, buried in graves and vaults in the cemeteries of this town, can be treated of in the future.”²

Upon receipt of this communication, the Society immediately set itself the task of drawing up a petition

¹ *Phoenix*, No. 3, March 1892.

² *Ibid.*

to the State Government praying for the establishment of permissive cremation in Bavaria.

This petition, which was agreed upon in the general meeting of the Munich Cremation Society¹ held on January 31, and dispatched February 12, 1892, was discussed in the sitting of the town magistrates on March 29, and led to the following announcement being addressed to the Society.²

"Concerning your petition of February 12, we beg to inform you that the magistracy in to-day's sitting, unanimously agreed to support the aforesaid petition for the establishment of permissive cremation in Bavaria."

No change has yet taken place in the laws of the Kingdom, but, in spite of this fact, the Town Council of Nüremberg (Bavaria) has recently (October 11, 1892), announced its intention of building a crematorium in that city.³

The speeches of the delegates to the General Assembly of the "German-speaking Societies for the Promotion of Burial Reform and Permissive Cremation" at Baden-Baden, on September 8, 1892, prove that in all places where cremation societies exist, efforts are being made to induce the respective Governments to legalise permissive cremation and to consent to the building of crematoria.⁴ In most towns, regulations are

¹ There are in Munich two cremation societies, the "Verein für Feuerbestattung," and the "Verein für Leichenverbrennung." The latter is the one mentioned above.

² *Phoenix*, No. 5, May 1892.

³ *Ibid.* No. 11, November 1892.

⁴ *Ibid.* No. 10, October 1892.

already in force, in conformity with which bodies may be removed to Gotha, Heidelberg, or Zürich for incineration.

But as in all countries under Prussian jurisdiction the cremation of corpses is strictly forbidden, the result of the action of the Cremation Society of Frankfort in bringing the matter before the "Verwaltungsgericht" (Court of Queen's Bench) is anxiously awaited throughout the German Empire.¹

AUSTRIA.

In 1872, the crematory appliances, displayed by Dr. Brunetti at the International Exhibition at Vienna, made a strong impression upon the people of that city, and led to a movement in favour of cremation.

After a serious study of the question, the Sanitary Council of the Empire and the Army Health Council pronounced themselves in favour of incineration. But Court influences and opinions current in the higher governmental spheres proved inimical to the practice.² In 1874, the Municipal Council of Vienna unanimously passed a proposition to the effect that "the Administration be asked to provide for the immediate carrying out of the system of cremation." After the question had been submitted to and rejected by the Upper House, a Bill was introduced into the Chamber of Deputies, but, before the matter came under discussion, Parliament was prorogued.

According to the laws of Austria, an Act not passed before a dissolution must be drawn up

¹ *Phoenix*, No. 10, October 1892.

² "La Crémation, &c." by Dr. de Piétra Santa, p. 45.

entirely afresh. It therefore became necessary to get up new petitions and revise all memoranda, before the subject of cremation could be again brought before Parliament.¹

A few years later a society for the "burning of bodies" was founded in Vienna under the title of "The Urn." This society sent a deputation to the Prime Minister—Count Taaffe—to ask him to further the passing of a law making cremation legal. But an absolute refusal was the only response granted to a deputation that represented the Governor of Lower Austria, the Municipality of Vienna, and many persons who were interested in the question of cremation.² For some time after this, no steps of importance were taken by "The Urn," and the inertia of that body led to the secession of some of its members and the formation of a new Society, under the Presidency of Herr Siedeck, entitled "The Flame."³ This Society has put forth ceaseless efforts to obtain governmental sanction for the practice of cremation in Austria; it has also made arrangements with the railway companies for the transport of bodies from all parts of Austria to Gotha and Zürich. The special rates chargeable for the coffin and for mourners are published every month in the *Phoenix*. On February 19, 1892, a large number of members and friends attended the Annual Meeting of "The Flame." After the usual formal business had been transacted, Herr Lekisch—a member of the magistracy⁴—informed the meeting that the Board of Health of Lower Austria had, in a note concerning

¹ Report of the Congress at Gotha, 1886. ² *Ibid.*

³ *Ibid.* ⁴ Or Town Councillor (Magistratsrath).

burial regulations, sent from the Health Department to the Municipality of Vienna, expressed itself in regard to cremation in the following manner :

“The Board of Health is of opinion that the burning of bodies, when effectuated in compliance with the requirements of justice and sanitation, and in accordance with religious considerations and the dictates of piety, and not as an expensive and exceptional privilege, but as a measure of as universal application as possible, meets the necessities of the care of the public health, and overthrows the many difficulties that burial gives rise to. It is, therefore, a task that must be undertaken in the future. The Department leaves it to the discretion of the Municipality of Vienna to make fit use of this opinion.”

This expression of opinion was the first recognition, on the part of the Government, of a cause which the Municipality of Vienna had long before made their own, and which members of the Vienna Town Council had urged so frequently and with absolutely no results in the Lower House of Parliament.

In view of this declaration, the Municipality of Vienna, in its next sitting, February 26, 1892,¹ decided to give its serious consideration to the question of cremation as a part of the much-needed burial reform. Public attention was thus once more attracted to cremation, and matters so far progressed that, at the General Assembly of “German-speaking Societies for the promotion of Burial Reform and Permissive Cremation,”² Herr Siedeck announced that “The Flame”

¹ *Phoenix*, No. 4, April 1892.

² Baden-Baden, September 1892.

had recently passed a resolution to the effect that the consent of the Municipality of Vienna to the erection of a crematorium should be obtained, and, in order to hasten the establishment of cremation, the building forthwith begun. Though no law rendering cremation permissive has yet been passed in Austria, "The Flame" has now undertaken the task of building a crematorium, in the hope that the holding of a trial incineration, largely attended by relatives and friends of the deceased, may force the hand of the Government and lead to some legislation on the subject.¹

In regard to the provision to be made by a testator to insure the cremation of his body at death, the opinion of Dr. Emil Guttman, Counsellor-at-Law (*Hof- und Gerichtsadvocat*) in Vienna, is of value. Writing in the *Phoenix* No. 9 (September 1892), Dr. Guttman says: "The law of Austria, unlike that of most European States, which disregards the wishes of the testator, is administered by a procedure that has the threefold aim of: 1. Determining the legal representatives; 2. Fulfilling the last will, so far as the intention of the testator can be ascertained; and 3. Insuring the payment of all legacies. So far as this procedure provides for the fulfilment of the express wishes of the testator, it ought to guarantee the cremation of his or her body, if desired. Yet it does not necessarily do so." Dr. Guttman goes on to explain that, although the law of Austria stipulates that, after the settlement of the affairs of the deceased, and before the residue of the estate is handed over to the heirs, the Court that

¹ *Phoenix*, No. 10, October 1892. Also communication from Herr Siedeck, Vienna.

adjudicates must prove, point by point, that the will of the deceased has been fulfilled, it is nevertheless left to the discretion of the Court whether or no the dispositions of the will need be literally carried out. This is especially the case when the fulfilment of the wishes of the deceased is attended with great difficulty or expense. In a case where the deceased has stated in his will that he wishes to be buried in a place remote from that in which he dies, and his relations bury him before they are made acquainted with his wishes, the law forbids the exhuming and removal of his body, on account of the extraordinary difficulty and outlay attending such a proceeding. In the same manner, therefore, a body buried by relatives before the contents of a will became known to them, could not be exhumed for cremation; and even if the legal representatives of the deceased, in spite of the knowledge of the dispositions of a will enjoining cremation, should, on account of the difficulty and cost of transporting the body to a distant crematorium, have the body buried, they would probably be within the law, especially as the non-existence of any statute legalising cremation leaves it in doubt whether cremation may or may not be regarded as permissible in the Austrian Empire. But, though a single testamentary disposition may be unavailing, Dr. Guttman notes that there are other methods in Austrian law that may prove more effective. Testamentary dispositions can assume different forms; they may take—either as a disadvantageous condition, in the case of non-fulfilment, or merely as the wish of the testator—the form of a bequest to heirs or of a so-called tax, by which certain persons inherit certain

dispositionary powers; or again, and this is the most stringent kind of testamentary disposition, they may assume the form of a condition, the fulfilment of which is obligatory on the persons who inherit the dispositionary powers. No form of a testamentary disposition, unless it be the conditional form, can guarantee the fulfilment of the testator's wish against all contingencies and differences of opinion. Only the prescribing of express conditions, upon fulfilment of which alone the receipt of a legacy absolutely depends, can insure the carrying out of a testator's instructions, provided of course that their performance is physically, legally, and morally possible.

On account of the contradictory aspects of all Austrian law, it is impossible for any lawyer to say exactly what testamentary dispositions will be supported by judicial opinion, and what not. On this account, therefore, Dr. Guttman thinks the only method to be recommended is that of the testator leaving all or part of his estate to a certain person or persons, upon the sole condition that they shall cause his body to be cremated. Then the testator's wishes would have to be carried out before his bequests could be distributed, and, as there is no law in Austria forbidding cremation, it could scarcely be urged that the burning of a body is an illegal act.

According to Dr. Guttman, it becomes the duty of all Austrian legal advisers, in drawing up a will enjoining the cremation of the testator's body, to make the mode of the disposition of his remains sure by following the lines laid down in his article. In his opinion, it is of little use for supporters of cremation to draw up all

sorts of forms, to be filled in by persons desiring to be cremated, for these, however carefully worded, cannot insure the carrying out of a testator's wishes. It is far more necessary, so Dr. Guttman affirms, that the requirements of each individual case should be inquired into, and an experienced lawyer entrusted with the drawing up of a will, taking its special features fully into account.

On September 21, 1892, in the Burghermaster's Assembly of the Völkermarkt district of Graz, a petition was forwarded to the Ministry of the Interior, praying that the bodies of all persons dying from cholera, might be burned.¹

BOHEMIA.

In the sitting of the Municipal Sanitary Council of Prague, April 25, 1888, the need of adopting the practice of cremation was discussed. It was proposed that the Town Council should be requested to set aside, in its next budget, a sum of money for the purchase of a site for a crematorium. The proposal was warmly supported by the members of the Sanitary Council and referred to a committee for further consideration. On May 25, 1888, this committee made its report, in which it stated that, in view of the impossibility of making any mode of burial innocuous, the committee was of opinion that it was necessary that the overcrowding of cemeteries and the filling of the earth with organic matter should be obviated by the adoption of permissive cremation, since all objections to such a

¹ *Phoenix*, No. 10, October 1892.

mode of disposing of the dead, as a hindrance to the researches of justice, might be done away with by the establishment of a severer system of death registration. Upon these principles, therefore, the committee recommended the Sanitary Council to petition the town authorities to adopt the process.¹

DENMARK.

The Danish Cremation Society was founded in 1881,² and strove for more than ten years to induce the Minister of Justice and the Folketing,³ which, led by the Minister of Public Worship, made a determined stand against cremation, to favour the views of its members. Although the Minister of Public Worship announced his disapproval in a most decided manner, and had a great deal of influence in the Folketing, the Society determined to conduct an experimental incineration, hoping, by that action, to force legislation in the matter. In order to accomplish this end, it was primarily necessary to have a crematorium. The building of one was decided upon on April 9, 1885, and, in September 1886, the structure being completed, it was arranged to hold a trial burning in it. A body of a suicide, obtained from the anatomy class in the University of Lund, Sweden, was procured for the purpose, and the cremation carried out. A repetition of the experiment, was, however, forbidden by the Minister of Justice, and the Society was warned that, if it

¹ *Phoenix*, No. 8, August 1892.

² *Ibid.* No. 5, May 1892.

³ Parliament, Lower House.

attempted to burn another body, the police would interfere. In 1888, the courts of law confirmed the prohibition of the Minister of Justice, and explained that, even though no law existed forbidding cremation, burial was the only legal form of disposal of the dead, and one that could not be dispensed with, except in a case of urgent necessity. An appeal from this decision was disallowed. But the permission which neither the Administration nor the courts of law would grant, was eventually obtained through the Legislature.

The following are the conditions, approved by the Minister of Justice,¹ under which the new Danish law rendering cremation permissive, may be carried out :

“ The existence of a testamentary disposition in valid form, and of a sufficient legacy to defray the cost of cremation ; the production of certificates obtained from the medical officer and from the police authorities, setting forth the undoubted cause of death ; and the depositing of the ashes in a churchyard or an officially approved crematorium.”

SWEDEN.

In 1890 there were already four cremation societies in Sweden, containing in all 3050 members, the chief Society being that at Stockholm.

On the occasion of the first cremation carried out in Sweden, the following order was published by the Royal Captain-General of the Province of Stockholm :²

¹ *Phoenix*, No. 5, May 1892.

² “*Erde oder Feuer ?*” by Wilhelm Schäffer. Darmstadt, 1890.

“ *November 1, 1887.*

“ When it became known that the Swedish Cremation Society had erected a crematorium for the burning of bodies in Hagalund, in the parish of Solna, the Royal Captain-General invited the president of the Society, Captain and Chevalier E. J. Klingenstierna, to appear before him this day (November 1, 1887), in order that he might have a personal interview with him, and that that gentleman might submit to him a printed copy of the statutes of the Swedish Cremation Society. Together with the various deeds and formularies concerning the cremation already accomplished, Mr. Klingenstierna gave the information that notice of the nature of the first steps taken by the Society had been sent in to his Majesty, and that his Majesty had thereupon asked his Ministers of Justice to give him their opinion on the matter. Upon hearing this, the Royal Captain of the Province found no immediate necessity for him, on his part, to take any further measures in the affair ; only Captain Klingenstierna, by virtue of his office,¹ must make it known that the Society can only again take charge of deceased persons on condition that he shall be able, as heretofore, to collect and preserve all the deeds relating [to the decease] and, besides these, he must produce before the sheriff of the jurisdiction [province or county] of Baxholm, the medical and police certificates. It will rest, then, with the sheriff to supply the date of presentation and to make further entries for preservation in the sheriff's office.

“ MATTHES FALK.”

¹ As President of the Cremation Society.

NORWAY.

Cremation has not been so easily adopted in Norway as in the neighbouring country of Sweden. In March 1889, a Cremation Society was started in Christiania, but there is, as yet, no crematorium in that city.¹ On May 25, 1892, another Society of about 111 members was founded in Bergen. This Society announces as its objects, the establishment of permissive cremation in Norway, and the erection of a crematory furnace in Bergen.²

SWITZERLAND.

In Switzerland, there seems to have been no agitation in favour of cremation until 1873. In 1874, public meetings, held at Zürich, did much to popularise the idea of cremation, and societies for the promotion of that mode of disposing of the dead were subsequently formed in various towns, notably in Zürich, Aaran and Argovie.³ The Municipality of Zürich greatly favoured the reform, and, in April 1877, the Zürich Government, upon the proposal of the Chief Officer of Health, issued a series of regulations determining the three special conditions under which the cremation societies of the Canton might proceed to put the methods advocated by them into practice. These conditions were :

- I. The formally expressed wish of the defunct.
- II. The carrying out of a *post-mortem* by the coroner

¹ "Erde oder Feuer?" by Wilhelm Schäffer. Darmstadt.

² *Phoenix*, No. 6. June 1892.

³ "La Crémation, sa raison d'être, &c.," p. 44, by Dr. de Piétra Santa.

of the district and the granting of a certificate attributing death to natural causes.

III. The obtaining of an authorisation from the Chief of Police, after a preliminary inquiry concerning the mode of life of the deceased person.

Further than this, a police regulation, drawn up by the Chief of Police and the representatives of the Cremation Society, enumerated the hygienic, administrative, and legal conditions necessary for the carrying out of the practice. But, in spite of all these authorisations, it was not till 1885 that the decision was arrived at actually to construct a crematory furnace at Zürich. This edifice was completed in 1888, and the first cremation took place there January 15, 1889.¹ At Berne, the Government has been urgently requested to follow the example of that of Zürich.² But though cremation societies exist in Berne, Geneva, St. Gallen, Lausanne, Biel and Basle, none of these towns possess crematoria. Great efforts are, however, being made in all of them to arrange for the construction of furnaces.

In Zürich, a movement has been recently set on foot to make the cremation of bodies of persons dying of infectious diseases, compulsory.³

BELGIUM.

In Belgium, the idea of cremation has been well supported from the first. Municipalities have favoured it, and the process was early applied to the carcasses of

¹ For "Instructions for the Conduct of Cremations in Zürich," see Appendix.

² "La Crémation, &c.," by Dr. de Piétra Santa, p. 44.

³ *Phoenix*, No. 8, August 1892.

animals. The Government, however, upon the advice of the Minister of Justice, long since declared that "before the practice of incineration can be adopted by the Belgians, there must be an alteration in the existing legislation which provides for the *burial* of the dead."¹ No alteration has been made, and the "decree of *Prairial* Year XII.," issued when Belgium belonged to France, is not only still in force, but on June 17, 1882, it was interpreted and confirmed by the circular of the Minister of the Interior which forbade cremation.² On the 20th of March 1882, the Municipality of Brussels and a number of private citizens sent a petition to Parliament demanding permissive cremation. No results followed the presentation of this document, and on January 2nd, 1883, *Comte* Goblet d'Alviella made a report upon the petition, and asked that it should be laid before the Ministry. Since that time, however, all thoughts of cremation have been in abeyance in Belgium, and those Belgians who wish to be cremated, are forced to arrange to have their bodies taken out of the country for incineration.

HOLLAND.

The Burial Law in force in the Netherlands bears the date of April 10, 1869.³ The first article of this law, as originally drawn up by Minister Heemskuh in 1867, permitted cremation as an exceptional mode of burial. But his successor, Minister Foch, allowed him-

¹ "Report of Congress at Gotha," 1886.

² Communication from Docteur J. Crocq, Senator and President of the Cremation Society of Belgium. See Codes Annotés, p. 45, annotation to Article 77.

³ "Bulletin des Lois," 1869, .p 65.

self to be intimidated by the representations of Dr. Westerhoff, and, in spite of the entreaties of Deputy van Kerkwyk not to undo the well thought out work of his predecessor, he changed one word in the first article, and thereby excluded cremation. Minister Foch forgot, however, to alter the remaining articles; the result being that the penalties enumerated by the Law of April 10th, 1869, are only applicable to those persons who *bury* corpses in contravention of the dispositions of that law; as, for example, the burial of bodies in places other than those set apart for the purpose.

In Holland, cremation is not forbidden by law, and it would be impossible for a judge to punish, as a transgressor of the law, any person convicted only of burning a dead body. Nevertheless, cremation has not yet been practised there.¹ The Sanitary Code provides for the *burial of all bodies in biers*.² The Netherlands Cremation Society, founded at the Hague, December 28th, 1874, was authorised by Royal Decree, September 1st, 1875. It comprises ten local sections in the principal cities with 400 members, and a general section for other cities and towns with 280 members, making in all 680. In response to the agitation promoted by this Society, the Dutch Government submitted to the Academy of Sciences this question: "Would the cremation of the dead put any obstacles in the way of the researches of medical jurisprudence?" The special commission nominated by Professor Donders, President of the Academy

¹ Communication, dated November 6th, 1892, from Mr. John J. Perk, Secretary-General of the Netherlands Cremation Society.

² "Crémation, sa raison d'être, &c.," p. 50.

of Sciences, came to the conclusion that the incineration of human remains, surrounded by necessary safeguards, might be adopted without any difficulty.¹ This opinion was expressed in June 1882, and in July 1886 the general assembly of the Netherlands Society of Physicians also declared itself in favour of the authorisation of cremation.² In expectation of the Governmental order permitting the cremation of the dead, the Netherlands Cremation Society has for some time collected a fund for the erection of furnaces in different parts of the Kingdom. At the ninth General Assembly at Leyden, September 27, 1884, the Society took upon itself, upon consideration of an advance payment of 200 guilders (about £17) the care of the transportation and incineration at the nearest crematory (that at Gotha) of the bodies of those members who should express a desire to be cremated. This decision was sanctioned by the Royal Decree of January 2, 1885.³

Over and over again the Society has petitioned the Government to establish permissive cremation, and the stereotyped response of successive Ministers has always been: "There is at present no urgency." At last the Society has determined to wait no longer. In a General Assembly, held at Utrecht, November 21, 1891, it was agreed that a crematory furnace, on the Bourry system, should be built at Hilversum, a town midway between Amsterdam and Utrecht.⁴

¹ Report of the Congress at Gotha, 1886.

² Prospectus of the Netherlands Cremation Society.

³ Prospectus of Netherlands Cremation Society.

⁴ Communication, dated November 6, 1890, from Mr. John J. Perk.

SPAIN.

We have it on the authority of the Spanish Consul-General in London, that no cremation societies exist in Spain, neither has cremation been legislated for, or in any way recognised, by the Government of that country. As early as 1877, however, attempts were made by scientific men to found a society. Some pamphlets were written in favour of the practice, and it was discussed in the Medico-pharmaceutical Academy of Catalonia, but no definite steps have been as yet taken to establish the practice.¹

PORTUGAL.

In Portugal, cremation is optional throughout the Kingdom, and the Municipality of Lisbon has enacted compulsory cremation in times of epidemic of yellow fever.²

THE UNITED STATES OF AMERICA.

Though in the practical application of the principle of cremation Germany led the van, and though in regard to the legalising and proper safeguarding of the practice, the Government of Italy proved itself more responsive to popular demands than any other Administration, the citizens of the United States have not lagged far behind the inhabitants of Germany and Italy in their adoption of the crematory process. In modern times, the first cremation of human remains on American soil

¹ "La Crémation. &c.," by Dr. de Piétra Santa, p. 51.

² Speech of Dr. Cameron in moving "Disposal of the Dead (Regulation) Bill" in House of Commons, April 30, 1884. See also "Earth-Burial and Cremation," by A. G. Cobb.

was effected at Washington, Pa.,¹ in 1876.² It does not appear that any law had previously been passed making cremation legal, though in 1875 the Health authorities of Massachusetts had taken the votes upon the subject, of the medical men and sanitarians in their jurisdiction, with the following result:

For the adoption of cremation	. . .	61
Against		21
For embalming		3
For incineration by chemical processes	. . .	1

The building of the Washington Crematorium was due entirely to private enterprise. Dr. Le Moyne, the great advocate of the adoption of incineration, was the constructor of the furnace. Besides the cremation already referred to, which took place in 1876, this furnace was used for the destruction of human bodies in 1877, 1878, and 1879. Though cremation had not the status of burial, the authorities did not interfere with the carrying on of the process. Many cremation companies were rapidly formed in various cities of the States, but at first few practical results were achieved. In September 1874 an article in the *American Law Register*, by Marshall D. Ewell of Chicago, contained the following comments on the celebrated decision of Mr. Justice Stephen in the case of *Reg. v. Price*: "The great learning of the Judge who gave the charge . . . as well as the fact that Lord Justice Fry concurred in his opinion, will invest it with great authority whenever the question shall again come up for decision, as

¹ Washington, Pennsylvania, a small town—not the city of Washington, capital of the United States.

² "La Crémation sa raison d'être," by Dr. Piétra Santa.

it unquestionably will, in the not far distant future. We have read the case carefully several times, and, while we confess that our personal opinion is very decidedly in favour of the cremation of dead bodies, under such statutory regulations as may be necessary to prevent the destruction of the evidence of crime, as soon as the state of public sentiment will warrant it, yet we consider the reasoning of the learned judge in support of his conclusion, that cremation is not illegal, very unsatisfactory; and we are of opinion that the authorities referred to by him, in his opinion, support the conclusion that it is the *duty of the executor or other person, having charge of a dead body, except where a different disposition is authorised by the statute, to bury it and not to burn it, and that such will continue to be his duty till public sentiment is so changed as to demand and procure legislation authorising cremation, a consummation which, in the more thickly settled communities at least, is most devoutly to be wished, and must eventually be attained.*"

In August 1884, Dr. Le Moyne's Crematorium at Washington, Pa., was closed to the general public, but in November, of the same year, the second crematory ever built in the United States was opened at Lancaster, Pa.¹ Following upon this, others rapidly sprung up in different parts of the country. In spite of the opinion already cited of the contributor to the American Law Register regarding the illegality of the act of cremation in a country where there existed no statutory authorisation of the practice, the civil authorities manifested no disposition to prevent the burning of dead bodies.

¹ "Earth-Burial and Cremation," by A. G. Cobb.

As early as September 1883, the Grand Jury of New Orleans had recommended the establishment in that city of a crematory for the incineration of the bodies of persons dying of contagious diseases.¹ In June 1886, a committee on cremation, appointed by the "Society of Medical Jurisprudence and State Medicine" of New York City made a report, in which it declared cremation to be a sanitary necessity. Accompanying the report was a resolution recommending the passage of a Bill by the Legislature that would require all persons dying of infectious diseases to be cremated under the direction of the municipal authorities. The Bill was to provide also for the incineration of the remains of paupers and unidentified persons. Public crematories were deemed advisable, and recommended.² Acting upon this suggestion, the New York State Legislature—in 1888—passed a Statute (cap. 441, § 1), providing that "the Board of Commissioners of Quarantine shall forthwith erect and establish upon Swinburne Island, in the harbour of New York, a crematory of such form and construction as they may deem advisable. It shall be lawful for the said Board of Commissioners to cause to be incinerated in such crematory the bodies of persons dying at the quarantine hospital from contagious or infectious diseases; but they shall not incinerate the bodies of any persons dying as aforesaid, whose religious views, as communicated by them while living, or by their friends within twenty-four hours after their decease, are opposed to cremation. The bodies of such persons shall be disposed of as hereinafter provided."

¹ "Earth-Burial and Cremation," by A. G. Cobb.

² *Ibid.*

Cremation is little more than a matter of business in New York State; in the beginning the Cremation Companies were simply registered at Albany in a manner precisely similar to that employed at the incorporation of any ordinary trading company. Yet incineration cannot possibly be deemed illegal, for the Penal Code, § 305, provides that "a person has the right to direct the manner in which his body shall be disposed of after his death; and also to direct the manner in which any part of his body which becomes separated therefrom during his lifetime shall be disposed of."

In 1886, the University of Pennsylvania erected a crematory for the incineration of bodies dissected in the Medical Department of the University,¹ and the Health Department of Philadelphia now maintains a furnace for the destruction of the remains of persons dying of infectious diseases.² (See Appendix.)

MEXICO.

The Mexican Government approves of the practice of cremation, and has intimated its intention of substituting it for that of burial.³

BRAZIL.

Brazil appears to have been the pioneer country of South America in regard to the re-adoption of the long-extinct practice of cremation. In the hope of lessening the mortality that devastates the older quarters of Rio

¹ "Earth-Burial and Cremation," by A. G. Cobb.

² Article on "Progress of Cremation," in the *New York Evening Post*, Saturday, April 9, 1892.

³ "Erde oder Feuer?" by Wilhelm Schäffer. Darmstadt, 1890.

Janeiro during the visitations of yellow fever, the late Government of Brazil resolved to erect a crematorium in the cemetery of St. Francis-Xavier.¹

ARGENTINE REPUBLIC.

In this country also the bodies of persons dying of infectious diseases are cremated.²

INDIA.

As stated in Part I., the practice of burning the dead is still retained in India, with all the attendant rites and ceremonies with which the traditions of the pre-historic faiths of the Indian peoples have invested it. The British Government has wisely refrained from interfering with the ancient custom, at least as regards the burning of corpses. But the incineration of the living is a different matter, and *Sātī* (or *suttee*) has been forbidden. Under the government of Lord William Bentinck, a legislative enactment was promulgated against it. By this Act, the observance of *Sātī* was declared penal in the British territories.³ The preamble of this Regulation, which embodies the reasons which justified the Government in abolishing the ancient practice, runs as follows :

“The practice of *Sātī*, or of burning or burying alive the widows of Hindus, is revolting to the feelings of human nature ; it is nowhere enjoined by the religion of the Hindus as an imperative duty ; on the contrary, a life of purity and retirement on the part of the widow is more especially and preferably inculcated, and by a vast majority of that people throughout India the prac-

¹ “ *La Crémation, &c.*,” by Dr. de Piétra Santa, p. 54.

² “ *Erde oder Feuer?* ” by Wilhelm Schäffer. Darmstadt, 1890.

³ Reg. XVII. of 1829.

tice is not kept up nor observed. In some extensive districts it does not exist. In those in which it has been most frequent, it is notorious that, in many instances, acts of atrocity have been perpetrated, which have been shocking to the Hindus themselves and in their eyes unlawful and wicked.

“The measures hitherto adopted to discourage and prevent such acts have failed of success, and the Governor-General in Council is deeply impressed with the conviction that the abuses in question cannot be effectually put an end to without abolishing the practice altogether. Actuated by these considerations, the Governor-General in Council, without intending to depart from one of the first and most important principles of the system of British government in India, that all classes of the people be secure in the observance of their religious usages—so long as that system can be adhered to without violating the paramount dictates of justice and humanity—has deemed it right to establish the following rules, which are hereby enacted to be in force from the time of their promulgation throughout the territories immediately subject to the Presidency of Fort William.”¹

This statute, therefore, rendered the practice of Sāti, or of burning or burying alive the widows of Hindus, illegal and punishable by the criminal courts (sec. ii.), and every person aiding and abetting the same was declared liable to punishment. It was further ordained (sec. iii.) that all zemindars, talookars, and other proprietors of land shall be responsible for the immediate

¹ “The Law relating to the Hindu Widow,” by Trailokyanatha Mitra, M.A., D.L., pp. 94 & 95.

communication to the officers of the nearest police stations of any intended case of Sātí, and in case of neglect they were liable to a fine. After its abolition in British India, the custom was still observed in the Native States. When Maharajah Runjeet Sing died in 1839, some of his wives became Sātí; and recently, when Maharajah Jung Bahadur of Nepal died, his wives became Sātí. Occasional cases of Sātí still occur.

JAPAN.

Cremation has long been held in honour by the Buddhists of Japan, but in 1876 it was prohibited by the Government out of deference for European ideas. The prohibition, however, could not stand against the force of popular usage, and three years later it was withdrawn.¹ The average number of bodies consumed annually by fire in Japan is 10,000.²

NEW SOUTH WALES.

A Bill to establish and regulate cremation was approved by the Legislative Council of New South Wales in 1886, but failed to pass the House of Assembly.³ During the year 1892, however, a movement was started with the object of inducing the Government to build a crematorium connected with the Sydney Quarantine Hospital, and eventually to establish a public crematorium.⁴

¹ "La Crémation, &c," by Dr. de Piétra Santa, p. 57.

² "Earth-Burial and Cremation," by A. G. Cobb.

³ "Annual Cyclopaedia, 1888." Published by Appleton of New York.

⁴ *Phoenix*, No. 11, November 1892.

PART III.

ENGLISH LAW.

THE legal doubts and difficulties that have ever beset and still impede the re-introduction of cremation into Great Britain cannot be better exemplified than by a short account of the early struggles of the Cremation Society of England.¹ This Society was founded in 1874 by a number of gentlemen interested in Burial Reform.² The opinion of an eminent counsel favourable to the cause of cremation was obtained, and a still more favourable opinion was given, unofficially, by Lord Selborne to a member of the Society's Council.³ In 1879, a correspondence was begun between the Secretary of the Society and the Right Honourable R. A. Cross, Secretary of State for the Home Department. A deputation, composed of inhabitants of Woking and neighbourhood, had waited on the Home Secretary and protested against the building of a crematorium, then in process of erection,

¹ President, Sir Henry Thompson, F.R.C.S. ; Honorary Secretary, J. C. Swinburne-Hanham, Esq., J.P. Offices : 8 New Cavendish Street, Portland Place, London, W.

² "Cremation," by Sir H. Thompson and others, p. 50.

³ *Ibid.* Letter from the Secretary to the Right Hon. R. A. Cross, Home Secretary, p. 51.

and this protest led to the interchange of letters between the Society and the Home Office. In the course of this correspondence Sir R. A. Cross pointed out that "the practice of ordinary burial had become interwoven with the legislative arrangements of the country, closely connected with various safeguards respecting death, with statistics of death, and with the evidence of death.¹ He also drew attention to the fact that "the form of certificate produced to the minister is that given by the registrar, who issues the certificate in exchange for that of the medical attendant, and thus the statistical object is secured. Further, the certificate of burial is, in all legal proceedings, the proper and most economical form of the evidence of death." He further informed the promoters of the Cremation Society that he could not "acquiesce in the continuance of the undertaking of the Society to carry out the practice of cremation" until Parliament had authorised such a practice by a "special or general Act," and that if the undertaking were persisted in, it would be his duty either to "test its legality in a court of law or to apply to Parliament for an Act to prohibit it until Parliament had an opportunity of considering the whole subject." A deputation consisting of the President (Sir Henry Thompson), Sir Spencer Wells, and other members of the Council, only elicited a suggestion from Sir R. A. Cross that a Bill might be brought into the House of Lords to determine the matter on a legal basis and to establish a system of registration. Meanwhile an inquiry was raised in the House of Lords, but it led to no practical result. In

¹ "Cremation." Sir H. Thompson and others, p. 53. Letter of February 21, 1879.

1880, owing to a change of Government, the correspondence was resumed with Sir William Harcourt, then Secretary of State, and an address was accepted at a meeting of the Public Health Section of the British Medical Association signed by 143 gentlemen, praying that the Government would not oppose the practice of cremation. This address was forwarded to the Home Secretary, and a simple acknowledgment of its receipt returned to the senders.¹ In 1882, the Secretary of the Cremation Society submitted the following question to the Home Secretary: "Supposing I were to die now, directing my executors to have my body burnt in our crematorium at Woking, would my executors be liable to prosecution?" To this question the following reply was sent:² "Sir William Harcourt can give no opinion in matters which belong to the jurisdiction of courts of law." But concerning the practice of disposing of the dead by burning, Sir William was of opinion "that it ought not to be sanctioned except under the authority and regulation of an Act of Parliament," and he stated further that he "must adhere to the view expressed by his predecessor in office," in the letter of February 21, 1879.

In 1882, the case of *Williams v. Williams*³ was heard before Mr. Justice Kay. This case bears so important a relation to the matter under discussion that it is necessary to deal with it at some length. Henry Crookenden, by a codicil to his will, directed his executors to give his body to his friend, Miss Eliza

¹ "Cremation," by Sir H. Thompson & others, pp. 56 & 57. Letter of Dec. 24, 1880.

² *Ibid.* p. 58. Letter of February 15, 1882.

³ L. R. 20 Ch. D. p. 659.

Williams (who was not one of his executors) to be disposed of in the manner described by him in a private letter addressed to her, in which he stated that he wished his body to be burned, when dead, under a pile of wood. He further directed his executors to pay her all expenses incurred out of his estate. He died December 21st, 1875, and by direction of the widow and son was buried at Brompton Cemetery, the executors paying the expenses of the funeral. Miss Williams made claim as to the disposal of the body, but not having the codicil and letter at hand, some dispute as to what actually occurred took place. In March 1876, Miss Williams wrote to the Home Secretary, with copies of the codicil and letter, praying for a license to remove the body for the purpose either of having it burnt or placing it in consecrated ground. The body had been buried, under the rites of the Roman Catholic Church, in an unconsecrated part of the Cemetery. The Under-Secretary of State refused to allow the body to be burnt, but asked to what burial-ground it was proposed to remove it, and to this question Miss Williams, writing from Montgomeryshire, replied that the body would be removed to the churchyard of Manafan in Montgomeryshire. On the 23rd of March 1876, the Home Secretary granted a licence for the removal of the body from Brompton Cemetery. In November of the same year Miss Williams informed the executors that, if opportunity offered, she should carry out Mr. Crookenden's wishes. In December the managers of Brompton Cemetery informed the solicitors of the widow and sons of the granting of the licence, and they thereupon wrote to Miss Williams.

and to the Secretary of State, and on the 20th March 1878 the licence was revoked; but meanwhile, on the 14th March, Miss Williams had caused the body to be disinterred, taken to Milan, and there burnt.

Miss Williams thereupon brought this action against the executors and the widow and sons as residuary legatees, claiming to be paid the expenses incurred in carrying out the testator's wishes. It was argued on her behalf that, though a direction in a codicil was "not exactly a legacy, it had always been considered that a man could dispose of his own body," that "if he directed his executors to bury him in a particular place or way, they must do so"; that, "even if there was no property in a body (*Reg. v. Sharpe*¹), a direction as to its disposal may be good"; that "a testator may leave property in many ways to objects in which he had no interest, and that in the present case the testator had directed his executors to pay these expenses"; that although it "was not the custom in England to burn bodies, yet there was no law against doing so, nor was it *contra bonos mores*; so that there was no reason why Miss Williams, having possession of the body, and having carried out the directions of the testator, should not be repaid." On behalf of the executors and the widow and sons, it was argued "that the executors had a right to the possession of the body (*Reg. v. Fox*²), and could recover it from any one else; that they had sole discretion as to the funeral" (*Stag v. Punter*³), and that "the testator's directions are frequently disregarded (*Dawson v. Small*⁴); (*Lloyd v.*

¹ Dea & Bell, C. C. 160.

² 2 Q. B. 246.

³ 3 Atk. 119.

⁴ L. R., 18 Eq. 114.

Lloyd¹); that “where no living person is entitled to the benefit of a trust, the executors may perform it or may disregard it, unless it amounts to a charity”; that “removal from a grave is a misdemeanour” (*Rex v. Lynn*²); that “a licence to remove for one purpose does not justify removal for another purpose, and leaves the removal an indictable offence”; and that “the testator did not mean his body to be burned after it had been buried.” It was argued in reply that in *Reg. v. Fox* the only question was whether a body could be detained for debt; in *Reg. v. Sharpe*³ the defendant was a trespasser;⁴ that executors have no property in the body, and that a man has a right to direct who is to have the custody of his body.

Mr. Justice Kay in giving judgment said, in conclusion :—

“I must hold that this action fails entirely: for any one of the reasons which I have given, the action would, in my opinion, be altogether unsustainable; and I dismiss it with costs.”⁵

Not long after the hearing this case, the subject of cremation again came before the Court in connection with the well-known case of *Reg. v. Price*,⁶ tried at the Cardiff Assizes before Mr. Justice Stephen in February 1884. The Judge’s charge to the Grand Jury in this case was the turning-point in the history of the Cremation Society of England, since it was the occasion of the promoters of the Society taking up the line of action they have since pursued. In his charge,

¹ 2 Sim. (N. S.) 255.

² 2 T. R. 733.

³ Dea & Bell, C. C. 160.

⁴ “Russell on Crimes,” p. 611.

⁵ See Appendix.

⁶ Law Rep. 12 Q. B. D., p. 247.

the learned Judge, after reviewing at considerable length the authorities on the subject of burial, expressed his conclusion in these words: "Though I think that to burn a body decently and inoffensively is lawful, or at the very least not criminal, it is obvious that if it is done in such a manner as to be offensive to others, it is a nuisance, and one of an aggravated kind."¹ It is under the protection of this important exposition of the law which clearly demonstrates that there is nothing in English law to render cremation illegal, that the practice is now carried on; and although the system of registering deaths and granting certificates remains unaltered, it appears that cremation is authorised in England as a legal method of disposing of the dead.

Two months after the date of this trial the Disposal of the Dead (Regulation Bill) moved by Dr. Cameron, seconded by Dr. Farquharson, and supported by Sir Lyon (now Lord) Playfair, was introduced into the House of Commons.

According to Dr. Cameron, the object of this Bill was to afford "additional guarantee for the detection of foul play *before* corpses are permitted to be buried, and to provide for the regulation of cremation, a practice which, uncontrolled at present, is fraught with danger to the community, but which under proper regulations, . . . presents a chance of effecting a most important social and sanitary reform."² In support of the Bill Dr. Farquharson and Sir Lyon Playfair both spoke in favour

¹ See Appendix.

² Dr. Cameron's speech at the House of Commons, April 30, 1884.

of the crematory process, and pointed out its advantages. The Bill was, however, opposed by the Government and the leader of the Opposition, and was thrown out by a majority of 149 to 79.

In May 1884, came another case that has an important bearing on this subject, in so much that it decided the illegality of burning or otherwise disposing of a dead body with the intention of avoiding an inquest. (*Reg. v. Stevenson and another*.¹)

The defendants were tried and found guilty before Mr. Justice Hawkins, at the Leeds Assizes, upon an indictment charging them with having burnt the dead body of a child, with intent to prevent the holding of an inquest upon it, but sentence was deferred until the opinion of the Court of Criminal Appeal could be obtained as to whether it was an indictable offence to prevent the holding of a coroner's inquest; and secondly, whether, under the circumstances of the case, the coroner had jurisdiction to hold an inquest.

On the arguing of the case before Justices Grove, Stephen, Williams, Matthew, and Hawkins, on June 28, 1884, the conviction was affirmed, and it is some satisfaction to the upholders of cremation to know that it was held that "it is a misdemeanor to burn or otherwise dispose of a dead body, with intent thereby to prevent the holding upon such body of an intended coroner's inquest, and so to obstruct a coroner in the execution of his duty, in a case where the inquest is one which the coroner has jurisdiction to hold." It was also held that "a coroner has jurisdiction to hold.

¹ L. R. 13 Q. B. D. 331.

and is justified in holding, an inquest if he honestly believes information which has been given to him to be true, which, if true, would make it his duty to hold such inquest."

Soon after the rejection of the Disposal of the Dead (Regulation Bill) the English Cremation Society issued a public notice stating that, under certain conditions, the crematorium could now be used,¹ and from the 20th of March 1885 to the end of the year 1891, 177 bodies have undergone the process of incineration at Woking.

The most prominent objection to the more general adoption of cremation is that rapid decomposition of the body removes all traces of poison or violence. The danger is no doubt a real one, but it is not entirely removed by burial. Sir Henry Thompson says, in reference to this question:² "It is often stated that burial ensures the conservation of evidence that poison has been given, but without large qualification the statement is very far from true. Soon after burial distinct traces of most poisons—certainly those which are the most potent, such as morphia, aconite, atropine, strychnine, prussic acid, &c.—are, sooner or later, decomposed; or they may become associated with new septic poisons developed in the body itself, which complicate the steps of subsequent inquiry, and invalidate unquestionable evidence which was present for some days after death, and might have been obtained while the body was above ground. There remain, then, only the metallic poisons which can be reckoned on as

¹ See Appendix.

² "Modern Cremation."

likely to be detected after exhumation, practically three in number—arsenic, antimony, and mercury. These will mostly continue for a considerable time in a condition which permits them to be obtained by analysis from the tissues of the person poisoned. Nevertheless, exhumation is at the best a clumsy attempt to rectify culpable want of care before burial. For it is not too much to say that the chances in favour of discovering poison will be at least twenty to one if adequate inquiry be made while the body is above ground, as compared with the result of analysis made of those which have once been buried. Yet what is our position in relation to this inquiry? Does the fact just named practically rule our action in this matter? By no means. Thousands of bodies are buried every year in this country even without medical certificates of any kind. Of course there are numerous deaths from disease in which no medical advice has been demanded, because the warning symptoms of danger have been absent or insufficient; and for this very reason an inquiry should be made by some competent official. And there are perhaps occasionally some in which the absence of the medical man has been ensured in furtherance of a sinister design. The proportion of inquests to deaths is by no means inconsiderable, but it is certainly less than it ought to be. Of the 522,750 deaths of 1885, no less than 27,798, or 5.3 per cent. were certified after inquest; but no less than 18,146, or 3.5 per cent. were buried without medical certificate or any inquiry whatever. And in the year 1886 these uncertified deaths amounted to 18,322. While it must be confessed that there is a very large number of cases in-

sufficiently defined by certificate and unsatisfactorily accounted for. Since the date of the first edition a little more attention appears to have been given to this matter, for in the latest report—that is, of the deaths in 1889, amounting to 518,353—the causes of 29,079, or 5·6 per cent., were certified after inquest; and 15,100 deaths, or 2·9 per cent., were not certified; an improvement of about a half per cent.¹ But in Scotland the uncertified deaths form a far larger proportion to the certified than they do in England. Thus, in the year 1888, the latest issue, the uncertified deaths in Edinburgh amounted to no less than 10·1 per cent. of the entire number. Among the rural population, it was far larger, reaching from 14 to over 40 per cent. in the remoter districts.²

“Few persons probably are aware of the infinitesimal relation which exhumation for legal purposes bears by comparison with the enormous opportunities offered for the commission of undiscoverable crime, due to our imperfect arrangements for inquiry into the cause of death in all ordinary cases. It is not too much to say that in a very large proportion of these the registration is merely an empty form.

“‘To strain at a gnat and swallow a camel,’ as a metaphor, inadequately represents the inconsistent conduct of those who continue to disregard the facilities care-

¹ Registrar-General's Report of Births, Deaths, and Marriages, the 52nd, for the year 1889, p. xviii. (Eyre & Spottiswoode, 1890).

² Registrar-General's Report of Births, Deaths, and Marriages in Scotland for the year 1888, p. lvi. (Neill & Co., Edinburgh, 1890). For an account of the laxity of usage in certifying death in Scotland, see a pamphlet by Dr. Charles Cameron, LL.D., M.P., entitled “The Modern Cremation Movement” (Alex. Gardner, Paisley and London, 1888). The whole work is an admirable and very forcible statement of the case in favour of cremation.

lessly permitted for criminal poisoning, and magnify the slender detective resources afforded by exhumation. Dr. Danford Thomas the well-known coroner for Central Middlesex, informs me that during the last seven years he has held about 10,000 inquests in that district, and only three exhumations have been ordered during the same period.

“But at my suggestion, Dr. Danford Thomas has been good enough to organise a systematic inquiry, extending throughout England and Wales, designed to obtain the results of exhumation for the last twenty years or thereabouts. There are 334 coroners in England and Wales, of whom 317, embracing all the important districts, have responded to a series of questions sent out to each for the purpose. Of this number, sixty-two had been directed to perform exhumation, and the total number of exhumations was 102. From these data it may be estimated that the mean number of exhumations made in a year throughout England and Wales is only five, and less than one yearly for poison! The number of inquests during 1886 was 30,548, showing as an average one exhumation to every 6,100 inquests. . . .

“Whether cremation be adopted, or the practice of burial alone be continued, in either case it is equally desirable to make a far more searching inquiry than we do at present in all cases of death.”

The excellent regulations laid down by the Cremation Society of England are, as far as that Society is concerned, a great safeguard; but as the practice becomes more general, the passing of a Bill such as that brought in by Dr. Cameron, Lord Playfair, and Dr. Farquharson for the regulation of cremation and other modes of dis-

posal of the dead, will become more and more pressing, and cannot long be delayed.

It is to be hoped that when a Bill is again presented it will deal more fully with the question of certificates of death than did the former one. By section 4 of that Bill it was provided that it should not be lawful to bury the dead body of a person until a certificate of registration had been issued in accordance with the provisions of the Registration Acts; by section 5 it was provided that where it was sought to register a death without the production of a medical certificate, in terms of the Registration Acts, the Registrar should delay issuing a certificate, and give notice to the Medical Officer of Health, who should proceed to ascertain the cause of death, and that his certificate, if granted, should be deemed a medical certificate within the meaning of the Acts. It also provided that if the Medical Officer was obstructed in proceeding to ascertain the cause of death, or was unable for any reason to ascertain the same, he should immediately give notice to the Coroner, who should proceed to hold an inquest. As this would throw an additional burden on the Medical Officer, and would not improbably lead to the passing of a subsequent Bill providing, as in France and certain parts of Germany, that in all cases of death the certificate shall be granted by a Medical Officer duly appointed for that purpose,¹ it is to be hoped that any future Bill that is promoted will provide for the appointment of a qualified medical officer in each district whose duty it shall be personally to view the

¹ In France, *Médecin Vérificateur*, or *Médecin Assermenté*; see p. 46. In Germany, see p. 139.

corpse, and certify as to the cause of death in every case.

The following excellent suggestions are made by Sir Henry Thompson : ¹

“(1) No body to be buried, burned, or otherwise disposed of without a medical certificate of death, signed, after personal knowledge and observation, or by information obtained after investigation made by a qualified medical man.

“(2) A qualified medical man should be appointed as official certifier in every parish, or district of neighbouring parishes, whose duty it will be to examine in all cases of death and report the cause in writing, together with such other details as may be deemed necessary.

“(3) If the circumstances of death obviously demand a coroner's inquest, the case is to be transferred to his court and the cause determined, with or without autopsy. If there appears to be no ground for holding an inquest, and an autopsy be necessary to the furnishing of a certificate, the official certifier will make it, and state the result in his report.

“(4) No person or company should be henceforth permitted to construct or use an apparatus for burning human bodies without obtaining a licence from the Home Secretary or other authority as determined.

“(5) No crematory should be so employed unless the site, construction, and system of management have been approved, after survey, by an officer appointed by Government for the purpose. But the licence to construct or use a crematory should not be withheld if

¹ “Modern Cremation,” by Sir Henry Thompson.

guarantees are given that the conditions required are or shall be complied with. All such crematories to be subject at all times to inspection by an officer appointed by the Government.

“(6) The burning of a human body otherwise than in an officially recognised crematory shall be illegal and punishable by penalty.

“(7) No human body shall be burned unless the official examiner who signs the certificate of death shall, in consequence of application made, add the words: “Cremation permitted.” And this he will be bound to do if, after due inquiry, with or without autopsy or coroner’s inquest, he is satisfied and can certify that the deceased has died from natural causes, and not from ill-treatment, poison, or violence.”

The before-mentioned Bill¹ further provided for the payment of a fee of five shillings to the Medical Officer from the person requiring the death to be registered.

And this leads naturally to the consideration of another set of fees—viz., Burial Fees.

It not infrequently happens that the relatives of deceased persons, whose bodies have been cremated, desire to bury the urn containing the ashes in a particular cemetery, but although the burial service may have been already read, either at the house of the deceased previous to the cremation or at the chapel attached to the crematorium, and although it is unnecessary to bury the urn more than a few inches below the surface, it has been the custom to charge

¹ See p. 100

burial fees as if the grave had been opened for the burial of a body contained in a coffin. Some provision for the burial of urns containing the ashes of deceased persons should certainly be added.¹

The Select Committee of the House of Commons (1882) on Ecclesiastical and Mortuary Fees, recommended "that no incumbent appointed in future should be allowed to demand any ecclesiastical fee on account of the use of a brick grave or a leaden coffin, or on account of any monument or memorial inscription erected or placed in the parish churchyard, or in a parochial cemetery, subject always to his income being supplemented by the Ecclesiastical Commissioners in proper cases."

There is again a kindred subject which might well be included in the Bill when re-introduced—viz., the position of an executor to a will containing a direction to cremate the body of a testator. As the law now stands, an executor is not obliged to follow a direction by will as to the disposition of the body of a testator—there being no property in a dead body,² but only a right of possession and power of disposition vested in the executors.³ It is scarcely necessary to point out that the present position of the law on this subject leads naturally to results like those that occurred in the cases already quoted, and places executors in the painful position of either carrying out a system of disposing of the dead to which they may be from religious or other reasons opposed, or refusing

¹ See Appendix, pp. 143, 144, and 150, 151.

² *Reg. v. Scott and Williams v. Williams*.

³ *Reg. v. Sharpe*.

the last request of a testator whose wishes they desire to fulfil.

In Italy, France, and the United States, the difficulty has been solved by giving to all persons, of full age and sound mind, the absolute right to determine the manner in which their bodies shall be disposed of after death;¹ provided, of course, that the regulations in force in the different countries are complied with. Until the law that gives to executors the complete power of disposition of the body has been altered, testators in this country will always experience considerable difficulty in insuring the cremation of their bodies at death, if indeed they can ever provide with certainty that their wishes shall be complied with. The embalming² and burial of the remains of Garibaldi,³ in spite of his reiterated wish to be cremated, is a notable instance of the difficulty in question, but it is not an extreme or isolated case. Such cases have probably occurred over and over again in England during the last few years, and they must continue to occur here and in all countries where absolute disposition of the body is vested in executors.

An article by a Viennese lawyer has already been cited,⁴ in which it is pointed out that, in spite of the fact that Austrian law nominally gives to all testators

¹ See under headings "France," "Italy," and "United States of America," in Part II., pages 44, 54, and 55.

² The Secretary of the Milan Cremation Society, when sent by the Italian Minister of the Interior to Caprera to conduct the cremation of Garibaldi, arrived in time to be present at the embalming of the General's body, which had already been begun by Professor Albanese.

³ See under heading "Italy," in Part II., pp. 51 and 52.

⁴ See under heading "Austria," Dr. Emil Guttman's opinion, pp. 74 and 75.

power to direct the disposition of their own bodies, the discretionary power vested in officials, who stand in the place of executors in that country, leaves it always very uncertain that their wishes will be carried out. The suggestion made by Dr. Emil Guttman in his article in *Phoenix* of September 1892, in regard to insuring cremation in accordance with the existent form of Austrian law, somewhat resembles a plan adopted by the author in 1890. A testator being exceedingly anxious to insure cremation, a separate executor was appointed by codicil, there being already an existing will, for the purpose of carrying out an agreement to cremate already entered into between the testator and the Cremation Society of England, with which Society a sum of money had been deposited to cover the expenses of the funeral and cremation. This executor was appointed for the period of one month after the death, this being considered a sufficient time to allow the removal and cremation to take place, or for such period, if less than one month, as should elapse until the cremation had been actually accomplished in accordance with the directions contained in the codicil. The codicil further directed that the trusts and provisions of the will and any previous codicil should be subject to the provisions of the codicil, and that, in particular, the appointment of executors made by the will should not take effect during the existence of the limited executorship, but should take effect immediately upon the expiration of such executorship. A copy of this codicil was deposited with the Cremation Society, together with the Society's forms, duly filled up, and a sum, sufficient to cover undertaker's charges and travelling

expenses, was left with the Society to the use of the executor.

By these means the necessity of disturbing the provisions of the existing will was avoided, and the executors, whom the testator wished to carry out its provisions, remained as originally appointed.

It is difficult to understand why English law should deprive testators of the power of disposing of their own bodies. The ancient Roman Law recognised the right of all persons, in a position to dispose of their worldly belongings by will, to determine the character of their own obsequies, and did not permit any violation of their wishes.

In the case of hereditary sepulchres, under the Roman Law, every representative of a family could claim the right of burial therein, but surviving members could do nothing contrary to the will of a testator.¹ The latter might have specially forbidden his representatives to bury him in the hereditary sepulchre and they were then obliged to conform to his wish, under penalty of exposing themselves to an action *sepulchri violati*. Further, if the testator had directed that the right to bury him was vested in only one of his representatives, that direction had to be observed; they were, however, forbidden to divide this right upon their own initiative, in order to bestow it upon only one of them. They received the right as it was and as delivered to them by the testator, and could neither dispose of it among themselves nor transmit it to strangers. The duty of burying a deceased person fell

¹ "Le Droit Funéraire à Rome," by Henri Daniel Lacombe, Docteur en droit.

by law upon the beneficiaries (under the will), and they all had to contribute *pro rata* to the expenses ; but this general rule underwent an exception when the defunct had specially designated some person to fulfil the duty. This specially designated person might have, as his trust, either to arrange the funeral or erect the tomb. Under these circumstances it was this person alone who was entitled to act, and any one who hindered the action, under any pretext whatsoever, was in the wrong (*non recte facere*).

APPENDIX.

I.

MR. JUSTICE KAY'S JUDGMENT

In the Case of Williams v. Williams, 20 Ch. Div. 659.

"I DO not delay giving judgment, as from the time when I learned the facts of the case my opinion upon it has not been altered." His Lordship then stated the facts of the case down to the funeral, and continued :

"Several legal points have been raised, on which I have not felt a moment's doubt, and which I will dispose of in the first instance. It is quite clearly the law of this country that there can be no property in the dead body of a human being. That was declared to be the law in the case of *Reg. v. Sharpe*, and as the decision is useful for other reasons, I will refer to the case more at length. It was an indictment for unlawfully digging up and taking the body of a deceased person out of a grave. It seems that the defendant's family had belonged to a congregation of Dissenters, and his mother with some other of his relatives had been buried in one grave in the burying-ground of the congregation ; that his father had recently died, and that the defendant prevailed on the person to whom the key of the burying-ground was entrusted to allow him to cause the grave to

be opened, under the pretext that he wished to bury his father in the same grave, that he caused the remains of the coffin of his mother with the corpse to be placed in a shell and carried some miles away towards the churchyard where he intended to bury his father's corpse with the remains of his mother. These acts were done without the knowledge or consent of the congregation to whom the burying-ground belonged, or of the trustees having the legal estate therein. The person having the keys of the ground was induced to admit the defendant into the ground and to the grave by reason of the pretext that he intended to bury his father there. The jury found that this was only a pretext, and that his real intention was from the beginning to remove his mother's corpse; that he acted throughout without the intention of disrespect to any one, being actuated by motives of affection towards his mother, and of religious duty. Mr. Justice Erle delivered the judgment of the Court, which consisted besides of Pollock, C.B., Willes, J., Bramwell, B., and Watson, B." His Lordship then read the judgment, in which Erle, J., after stating the facts said: ¹ "Neither authority nor principle would justify the position that the wrongful removal of a corpse was no misdemeanour if the motive for the act deserved approbation. A purpose of anatomical science would fall within that category. Neither does our law recognise the right of any one child to the corpse of its parent, as claimed by the defendant. Our law recognises no property in a corpse, and the protection of the grave at common law, as contradistinguished from the ecclesiastical protection to consecrated ground,

¹ Dea & Bell, C. C. 163.

depends upon this form of indictment ; and there is no authority for saying that relationship will justify the taking of a corpse away from the grave where it has been buried. We have been unwilling to affirm the conviction on account of our respect for the motives of the defendant, but we have felt it our duty to do so, rather than lay down a rule which might lessen the only protection the law affords in respect of the burials of Dissenters. The result is that the conviction will stand, and the judge states that the sentence should be a nominal fine of one shilling.' That judgment entirely justifies my statement that the law of this country recognises no property in a corpse.

"The second point of law depends upon the rights of executors with respect to burial. They are stated thus in Williams on Executors:¹ 'It is now proposed to consider the duties of an executor or administrator. And first he must bury the deceased in a manner suitable to the estate he leaves behind him ; and the reference is to the high authority of Mr. Justice Blackstone, who states the proposition in the same words.'² It has been argued that this only applies to the expenses of the burial ; but I do not agree with that contention. It means, and I understand the law of this country to be, that *prima facie* the executors are entitled to the possession of and are responsible for the burial of a dead body ; and if any further authority be wanted it is to be found in the case of Reg. v. Fox,³ where a gaoler had refused to deliver up to the executors the body of a person who died while a prisoner, unless they would satisfy certain claims made by the gaoler against the deceased. The

¹ Sixth ed. p. 906.

² 2 Bl. Com. 508.

³ 2 Q. B. 246.

Court issued a mandamus, and Lord Chief Justice Denman said this: 'I think this is a case in which we ought not to wait for a return but that the mandamus should be peremptory in the first instance. If Scott has any answer to give, he can do so, not by way of return, but in showing cause why an attachment should not issue.' In that decision Williams, Coleridge, and Wightman, J.J., concurred, and it is founded on *Reg. v. Scott*,¹ where a similar event had occurred; and Mr. Justice Maule said that the notion of a gaoler being authorised to detain a dead body on account of pecuniary claims was a mistake, and that he would be liable to prosecution. That case shows not merely that a gaoler may not detain the dead body, but that although there is no property in a dead body, the executors have such a right of possession that they may obtain a peremptory mandamus against the gaoler, who was lawfully in possession of the body of the man while alive, to have the dead body delivered up to them. Accordingly, the law in this country is clear, that after the death of a man, his executors have a right to the custody and possession of his body (although they have no property in it) until it is properly buried. It follows that a man cannot by will dispose of his dead body. If there be no property in a dead body, it is impossible that by will or any other instrument the body can be disposed of. I asked for any authority in conflict with these cases, but none was produced. I have referred to the books of the greatest authority on the question, and I believe there is no authority in the least degree in conflict with these cases.

¹ 2 Q. B. 248, N.

“It follows that the direction in this codicil to the executors, to deliver over the body to Miss Williams, who is not one of the executors, is a direction which in point of law could not be enforced and was void. She had no right of property in the body under that direction, nor could she enforce the delivery of the body by the executors. I should have therefore no hesitation, if the case stood there, in saying that this direction contained in the codicil was a direction which could not be enforced at law, and was therefore void. Of course the purpose named in the letters cannot make it better or worse. If the purpose had merely been for burial in a particular cemetery, which would be entirely according to the law of this country, that would not make the direction to deliver the body to some one who was not an executor any more legal or enforceable, but the purpose confessedly was to have the body burnt, and thereupon arises a very considerable question whether that is or not a lawful purpose according to the law of this country. That is a question which I am not going to decide.

“But there are two other points, either of which it seems to me would be equally fatal to this claim. The body was buried by the family with the assent of the executors. The testator was a member of the Roman Catholic communion, and I am told that when bodies are buried in ground which is not altogether consecrated, ceremonies take place at the grave which have the effect of blessing the grave; at any rate, the priest, as I understand, pronounces a blessing on the grave, and some consecrated earth is thrown in. All that I understand was done at this funeral, and the funeral was perfectly regular, formal, and proper according to the

rites of the Church of Rome. Now, Miss Williams at and before this funeral expressed her wish to carry out the desires of the testator. The evidence is that neither the family nor the executors would assent, and accordingly the funeral took place. Afterwards, in March 1876, she applied to the Secretary of State." (His Lordship then stated the facts as to her application.) "I wish to preface all I am going to say on this part of the case by the statement, that in my view this lady considered that she was under a paramount obligation, by reason of the duties which she had undertaken to the testator, to carry out this wish of his if by any means she could, and I should absolve her, so far as I can form any opinion on the matter, of any intention to do that which was illegal or improper, or in any way *contra bonos mores*. But I observe that by the terms of the codicil the testator certainly contemplated that the cremation should take place before burial, because he directs that the body should be delivered to her three days after death and that then the costs which she incurred should be repaid to her on production of the vouchers within three months of his death. There can be no kind of doubt, therefore, that what he contemplated was not cremation after interment, but cremation and not interment."

His Lordship then read the answer of the Under Secretary of State, and observed that his meaning clearly was that no licence would be given to remove the body for the purpose of cremation, and that a licence would only be given for the purpose of burying the body in consecrated ground, if the ground was pointed out and approved of. His Lordship then read the reply of Miss Williams, and said that it clearly meant that she had

given up the notion of cremation, and would adopt the other alternative, and thereupon the licence was given, which of course proceeded on the supposition that the only purpose for which she intended to remove the body was that of burying it in consecrated ground at Manafan. His Lordship then read her letter to the executors, and said that if that had been brought to the attention of the Home Secretary before the body was removed, no doubt the licence would have been revoked; and moreover, if the executors had applied in this Court for an injunction, this Court would have stopped the removal of the body. His Lordship then proceeded:

“It has been argued that the removal for the purpose which this lady certainly represented to the Secretary of State that she had abandoned, was a misdemeanour, and there is language in the judgment of Chief Justice Erle in the case of *Reg. v. Sharpe*¹ which might justify an argument to that effect. That, however, is a point which I am not going to decide. It is enough for me to say that the removal for the purpose of cremation and the cremation were illegal acts. If that alone were the question to be decided, it would be impossible for this lady to recover against the estate money for doing that which, if I am right, was an illegal act.” His Lordship then dealt with other points of the case not affecting the present subject, and concluded:

“I must hold that this action fails entirely: for any one of the reasons which I have given, the action would, in my opinion, be altogether unsustainable; and I dismiss it with costs.”

¹ Dea & Bell, C. C. 160.

II.

MR. JUSTICE STEPHEN ON THE LAW OF CREMATION.

*Charge to the Grand Jury at the Crown Court,
Cardiff, in February 1884.*

GENTLEMEN OF THE GRAND JURY,—There are a considerable number of cases on the calendar, but, with one exception, they are of the most ordinary kind, and the circumstances attending them are of such a usual character that I shall not weary you with dwelling upon them at all. One of the cases to be brought before you is so singular in its character, and involves a legal question of so much novelty and of such general interest, that I propose to state at some length what I believe to be the law upon the matter. I have given this subject all the consideration I could, and I am permitted to say that, although I alone am responsible for what I am about to read to you, Lord Justice Fry takes the same view of the subject as I do, and for the same reasons.

William Price is charged with a misdemeanour under the following circumstances:—He had in his house a child five months old, of which he is said to be the father. The child died. Mr. Price did not register its death. The coroner accordingly gave him notice on a Saturday that unless he sent a

medical certificate of the cause of death, he (the coroner) would hold an inquest on the body on the following Monday. Mr. Price on the Sunday afternoon took the body of the child to an open space, put it into a ten-gallon cask of petroleum, and set the petroleum on fire. A crowd collected; the body of the child, which was burning, was covered with earth and the flames extinguished, and Mr. Price was brought before the magistrates and committed for trial. He will be indicted before you on a charge which in different forms imputes to him as criminal two parts of what he is said to have done—first, in having prevented the holding of an inquest on the body; and secondly, in his having attempted to burn the child's body. With respect to the prevention of the inquest, the law is that it is a misdemeanour to prevent the holding of an inquest, which ought to be held, by disposing of the body. It is essential to this offence that the inquest which it is proposed to hold is one which ought to be held. The coroner has not an absolute right to hold inquests in every case in which he chooses to do so. It would be intolerable if he had power to intrude without adequate cause upon the privacy of a family in distress, and to interfere in their arrangements for a funeral. Nothing can justify such an interference, except a reasonable suspicion that there may have been something peculiar in the death, and that it may have been due to other causes than common illness. In such cases the coroner not only may, but ought, to hold an inquest, and to prevent him from doing so by disposing of the body in any way—for an inquest must be held on the view of the body—is a misdemeanour. The depositions in the present case do not very clearly show

why the coroner considered an inquest necessary. If you think that the conduct of Dr. Price was such as to give him fair grounds for holding one, you ought to find a true bill, for beyond all question he did as much as in him lay to dispose of the body in such a manner as to make an inquest impossible. The other part charged as criminal is the attempt made by Dr. Price to burn his child's body, and this raises, in a form which makes it my duty to direct you upon it, a question which has been several times discussed, and which has attracted some public attention, though, so far as I know, no legal decision upon it has ever been given—the question, namely, whether it is a misdemeanour at common law to burn a dead body instead of burying it. As there is no direct authority upon the question, I have found it necessary, in order to form an opinion, to examine several branches of the law which bear upon it more or less remotely, in order to ascertain the principles on which it depends. The practice of burning dead bodies prevailed to a considerable extent under the Romans, as it does to this day among the Hindoos, though it is said that the practice of burial is both older and more general. It appears to have been discontinued in this country and in other parts of Europe when Christianity was fully established, as the destruction of the body by fire was considered, for reasons to which I need not refer here, to be opposed to Christian sentiment; but this change took place so long ago, and the substitution of burial for burning was so complete, that the burning of the dead has never been formally forbidden, or even mentioned or referred to, so far as I know, in any part of our law. The subject of burial was formerly and for many centuries a branch of the

ecclesiastical or canon law. Among the English writers on this subject little is to be found relating to burial. The subject was much more elaborately and systematically studied in Roman Catholic countries than in England, because the law itself prevailed much more extensively in those countries. In the "*Jus Ecclesiasticum*" of Van Espen, a great authority on the subject, there is an elaborate discourse, filling twenty-two folio pages in double column, on the subject of burial, in which every branch of the subject is systematically arranged and discussed, with references to numerous authorities. The only importance of it is that it shares the view of the Canonists on the subject, which view had great influence on our own ecclesiastical lawyers, though only a small part of the canon law itself was ever introduced into this country. Without giving specific reference, I may say that the whole of the title in Van Espen regards the participation in funeral rites as a privilege to which, subject to certain conditions, all the members of the Church were entitled, and the deprivation of which was a kind of posthumous punishment analogous to the excommunication of the living. The great question with which the writer occupies himself is—In what cases ought burial to be denied? The general principle is that those who are not worthy of Church privileges in life are also to be excluded from them in death. As to the manner in which the dead bodies of persons deprived of burial were to be disposed of, Van Espen says only that although in some instances the civil power may have entirely forbidden burial, whereby bodies may remain unburied or exposed to the sight of all, to be devoured by beasts or destroyed by the weather (he considers

the dissection of criminals as a case of this kind), the Church has never made such a provision, and has never prohibited the covering of dead corpses with the earth. This way of looking at the subject seems to explain how the law came to be silent on exceptional ways of disposing of dead bodies. The question was in what cases burial must be refused. As for the way of disposing of bodies to which it was refused, the matter escaped attention, being probably regarded as a matter which affected those only who were so unfortunate as to have charge of such corpses. The famous judgment of Lord Stowell in the case of iron coffins (*Gilbert v. Buzzard*, 2 Haggard, Consistory Reports, 333), which constitutes an elaborate treatise on burial, proceeds upon the same principles. The law presumes that every one will wish that the bodies of those in whom he was interested in their lifetime should have Christian burial. The probability of a man entertaining and acting upon a different view is not considered. These considerations explain the reason why the law is silent as to the practice of burning the dead. Before I come to consider its legality directly, it will be well to examine some analogous topics which throw light upon it. There is one practice which has an analogy to funereal burning, inasmuch as it constitutes an exceptional method of dealing with dead bodies. I refer to anatomy. Anatomy was practised in England as far back as the very beginning of the seventeenth century. It continued to be practised, so far as I know, without any interference on the part of the Legislature, down to the year 1832, in which year was passed the Act for regulating the Schools of Anatomy. This Act recites "the importance of

anatomy, and that the legal supply of human bodies for such anatomical study is insufficient fully to provide the means of such knowledge.' It then makes provision for the supply of such bodies by enabling any executor or other party having lawful possession of the body of any deceased person to permit the body to be dissected except in certain cases. The effect of this has been that the bodies of persons dying in various public institutions, whose relatives were unknown, were so dissected. The Act establishes other requisitions not material to the present question, and enacts that after examination the bodies shall be decently interred. This Act appears to me to prove clearly that Parliament regarded anatomy as a legal practice; and, further, that it considered that there was such a thing as a 'legal supply of human bodies,' though that supply was insufficient for the purpose. This is inconsistent with the opinion that it is an absolute duty on the part of persons in charge of dead bodies to bury them, and this conclusion is rather strengthened than otherwise by the provision in sec. 13 of the Act: 'The party removing the body shall provide for its decent burial after examination.' This seems to imply that, apart from the Act the obligation to bury would not exist, and it is remarkable that the words are not, as in the earlier section, 'executor or other party,' which seems to point to the inference that the executor stood in a different position as to burial from the party having 'lawful possession,' and has a wider discretion on the matter. I come now to a series of cases more clearly connected with the present case. As is well known, the great demand for bodies for anatomical purposes not only led in some cases to murders the object of which was to sell

the bodies of the murdered persons, but also to robberies of churchyards by what were commonly called "resurrection men." This practice prevailed for a considerable length of time, as appears from the case of *R. v. Lynn* (2 T. R. 738) decided in 1788, forty-four years before the anatomy Act. In that case it was held to be a misdemeanour to disinter a body for the purpose of dissection, the Court saying that common decency required that the practice should be put a stop to, that the offence was cognisable in a criminal court as being highly indecent and *contra bonos mores*, at the bare idea alone of which nature revolted. Many also said that "it had been the regular practice of the Old Bailey in modern times to try charges of this nature." It is to be observed in reference to this case that the act done would have been a peculiarly indecent theft if it had not been for the technical reason that a dead body is not the subject of property. A case, however, has been carried a step further in modern times. It was held in *Reg. v. Sharpe* (1 Dea. & Bell, 160) to be a misdemeanour to disinter a body at all without lawful authority, even when the motive of the offender was pious and laudable, the case being one in which the son disinterred his mother in order to bury her in his father's grave, but he got access to her grave and opened it by false pretence. The law to be extracted from these authorities seems to me to be this: the practice of anatomy is lawful and useful, though it may involve an unusual means of disposing of dead bodies; but to open a grave and disinter a dead body without authority is a misdemeanour even if it is done for a laudable purpose. These cases, for the reasons I have given, have some analogy to the case of burning a dead

body, but they are remote from it. They certainly do not in themselves warrant the proposition that to burn a dead body is in itself a misdemeanour. There are two other cases which come rather nearer to the point. They are *R. v. Van*, 2 Den. 325, and *R. v. Stewart*, 12 A. E. 773-779. Each of these cases lays down in unqualified terms that it is the duty of certain specified persons to bury in particular cases. The case of *R. v. Stewart* lays down the following principles: "Every person dying in this country, and not within certain exclusions laid down by the ecclesiastical law, has a right to Christian burial, and that implies the right to be carried from the place where his body lies to the parish cemetery." It adds: "The individual under whose roof a poor person dies is bound (*i.e.*, if no one else is so bound, as appears from the rest of the case) to carry the body, decently covered, to the place of burial. He cannot keep him unburied, nor do anything which prevents Christian burial. He cannot therefore, cast him out, so as to expose the body to violation, or to offend the feelings or endanger the health of the living; for those reasons he cannot carry him uncovered to the grave." In the case of *R. v. Van* the Court held: "That a man is bound to give Christian burial to his deceased child if he has the means of doing so; but he is not liable to be indicted for a nuisance if he has not the means of providing burial for it." These cases are the nearest approach which I have been able to find to an authority directly upon the present point; for if there is an absolute duty upon a man having the means to bury his child, and if it is a duty to give every corpse Christian burial, the duty must be violated by burning it. I do not think, however, that the cases really mean to lay

down any such rule. The question of burning was not before the Court in either case. In *R. v. Stewart* the question was whether the duty of burial lay upon the parish officers or on some other person. In *R. v. Van* the question was whether a man who has not the means to bury his child was bound to incur a debt in order to do so. In neither case can the Court have intended to express themselves with complete verbal accuracy, for in the case of *R. v. Stewart* the Court speaks of the "right" of a dead body, which is obviously a popular form of expression, a corpse not being capable of rights; and in both cases the expression Christian burial is used, which is obviously inapplicable to persons who are not Christians—Jews, for instance, Mahomedans, or Hindoos. To this I may add that the attention of neither Court was called to the subject of anatomy already referred to. Skeletons and anatomical preparations could not be innocently obtained if the language of the cases referred to was construed, as it was intended to be, severely and literally accurate. There is only one other case to be mentioned. This is the case of *Williams v. Williams*, which was decided two years ago by Mr. Justice Kay in the Chancery Division of the High Court, and is reported in the *L. R.* 20 Ch. Div. 659. In this case one H. Crookenden directed his friend, Eliza Williams, to burn his body, and directed his executors to pay her expenses. The executors buried the body. Miss Williams got leave from the Secretary of State to disinter it, in order, as she said, to be buried elsewhere. Having obtained possession of it by misrepresentation, she burnt it, and sued the executors for her expenses. I need not trace out all the points in the case, as it avowedly

leaves the question now before us undecided. The purpose was, says Mr. Justice Kay, "confessedly to have the body buried, and thereupon arises a very considerable question whether that is or is not a lawful purpose according to the law of this country. That is a question which I am not going to decide." He held that in the particular case the removal of the body and its burning were both illegal according to the decision of *R. v. Sharpe*, already referred to. "Giving the lady credit," he said, "for the best of motives, there can be no kind of doubt that the act of removing the body by that licence, and then burning it, was as distinct a fraud on that licence as anything could possibly be." This was enough for the particular case, and the learned judge accordingly expressed no opinion on the question on which it now becomes my duty to direct you. It arises in the present case in a perfectly clear and simple form, unembarrassed by any consideration as applied to the other cases to which I have referred. There is no question here of the gross illegality which marked the conduct of those described as resurrection men, of the artifices—not indeed criminal, but certainly disingenuous—by which the possession of the body was obtained in the cases of *R. v. Sharpe* and *Williams v. Williams*. Dr. Price had lawful possession of the child's body, and it was certainly not only his right but his duty to dispose of it by burying, or in any other manner not in itself illegal. Here I must consider the question whether to burn a dead body instead of burying it is in itself an illegal act. After full consideration, I am of opinion that a person who burns instead of burying a dead body does not commit a criminal act unless he does it in such a manner as to

amount to a public nuisance at common law. The reason for this opinion is, that, upon the fullest examination of the authorities, I have, as the present review of them shows, been unable to discover any authority for the proposition that it is a misdemeanour to burn a dead body, and in the absence of such authority I feel that I have no right to declare it to be one. There are some instances, no doubt, in which courts of justice have declared acts to be misdemeanours which had never previously been decided to be so ; but I think it would be found that in every such case the act involved great public mischief or moral scandal. It is not my place to offer any opinion of the comparative methods of burning and burying corpses, but before I could hold that it must be a misdemeanour to burn a dead body I must be satisfied not only that some people, or even many people, object to the practice, but that it is on plain, undeniable grounds highly mischievous, or grossly scandalous ; even then I should pause long before I held it to be a misdemeanour, but I cannot even take the first step. Sir Thomas Browne finishes his famous essay on *Urn Burial* with a quotation from Lucan, which in eight Latin words translated by eight English words seems to sum up the matter : '*Tabesne cadavera solvat an rogus haud refert*' ('Whether decay or fire destroys corpses matters not'). The difference between the two processes is, the one is quick, the other slow. Each is so horrible that every earthly imagination would turn away from its details, but one or the other is inevitable, and each may be concealed from observation by proper precautions. There are, no doubt, religious considerations and feelings connected with the subject which every one would wish to treat with

respect and tenderness, and I suppose there is no doubt that as a matter of historical fact the disuse of burning bodies was due to the force of religious sentiments. I do not think, however, that it can be said that every practice which startles and jars upon the religious sentiments of the majority of the population is for that reason a misdemeanour at common law. The statement of such a proposition is a sufficient refutation of it, but nothing short of this will support the conclusion that to burn a dead body must be a misdemeanour. As for the public interest in the matter, burning, on the one hand, effectively prevents the bodies of the dead from poisoning the living; on the other hand, it might, no doubt, destroy the evidences of crime. These, however, are matters for the Legislature and not for me. The great leading rule of criminal law, is that nothing is a crime unless it is plainly forbidden by law. This rule is, no doubt, subject to exceptions, but they are rare, narrow, and to be administered with the greatest reluctance, and only upon the strongest reasons. This brings me to the last observation I have to make. Though I think that to burn a body decently and inoffensively is lawful, or at the very least not criminal, it is obvious that if it is done in such a manner as to be offensive to others it is a nuisance, and one of an aggravated kind. A common nuisance is an act which obstructs or causes inconvenience or damage to the public in the exercise of right common to all her Majesty's subjects. To burn a dead body in such a place or in such a manner as to annoy persons passing along public roads, or other places where they have a right to go, is beyond all doubt a nuisance, as nothing more offensive, both to sight and smell, can be imagined. The depositions

in this case do not state very distinctly the nature of the place where the act was done ; but if you think, upon inquiry, that there is evidence of its having been done in such a situation and manner as to be offensive to any considerable number of persons, you should find a true bill. This must depend upon details on which it would be improper, and indeed impossible, to address you. I must conclude with a few words explanatory of the reasons which have led me to address you at so much length. The novelty of the matter, and the interest which many persons take in it, are a reason for going into it fully. The difficulty which a petty jury would find is avoided by my addressing myself to you rather than to them. The fact also that if I am wrong my error is in favour of the defendant, is another reason for stating my views fully to you, for if he should be acquitted upon my direction, there would be no means of carrying the case to the Court for Crown Cases Reserved."

III.

GOTHA.

*Description of Crematorium and Regulations for
the Conduct of Cremations.*

THE Crematorium, which is constructed after the design of Herr Siemens, Engineer of Dresden (" *Regenerativ-System*" with gas furnace), stands in the new Cemetery at Gotha. All the apparatus is situated underground, beneath the chapel floor, and is so arranged that the coffins can be lowered gradually into the receiving-chamber during the reading of the burial service, and mechanically passed on into the furnace itself. From December 14, 1878, until January 1893, 1156 bodies were cremated there.

On March 4, 1877, the first police regulations authorising the cremation of the bodies of persons dying within the jurisdiction of the town of Gotha, were sanctioned by the Grand Ducal State Ministry. These regulations were followed by others, issued on June 2, 1881, which provided—(1) that in every case where cremation was desired a special authorisation in writing should be obtained of the local police authorities; (2) that incineration should only be carried out when the deceased had expressed the wish to be cremated, or when those who had the conduct of the funeral desired it; and (3) that no cremation

should be proceeded with until the usual certificate required in the case of burial had been obtained.

On account of the omission of the charges for digging and maintenance of graves, the cost of cremation at Gotha is very little more than that of burial in the same place. The fees are :

For use of the apparatus . . .	16 mk.
For firing	24 to 30 mk.
For engineer and stoker . . .	14 mk.
Tax assessed by town authorities (for strangers)	5 mk.

Further expenses vary according to the style of funeral and mode of ceremonial adopted. The average cost of a cremation, apart from fees connected with any religious ceremony, but inclusive of the expenses of transport from the railway station to the crematorium, and fees to attendants, is 100 mk.

For persons dying within the jurisdiction of the town of Gotha, the funeral service is performed, up to the moment of the descent of the coffin into the receiving-chamber of the furnace, in a precisely similar manner to that practised at ordinary burials.

The funeral services for persons brought from other places to Gotha can be arranged for by those who have charge of the funeral.

The size of a coffin in which the remains of a person to be cremated are brought to Gotha must not exceed

2.25 metres in length.
0.75 „ „ height.
0.72 „ „ width.

The coffin should be constructed of light wood and the lid made as low as possible. If, in the case of the transport of a body from a distance, the authorities

of the place of decease require the coffin to be made of metal, only the thinnest tin or zinc is suitable. Should other metal be used, the body must be transferred on arrival to a wooden coffin. But out of respect for the dead and in deference to religious sentiment, it is requested that this necessity shall be as far as possible avoided.

After cremation has taken place the ashes are returned to the persons who have the conduct of the funeral, or, if these desire it, they are placed in the columbarium in an urn made at their expense. The size of the urn must not exceed

0·80 metres in height, and

0·40 „ „ width.

The charge for placing an urn in a niche in the columbarium for a period of thirty years is 45 mk. This charge does not vary, as no extra payment is exacted of foreigners. At the expiration of thirty years, the ashes will be buried in the portion of the cemetery reserved for the purpose.

The Town Councillor superintending the cremations carried out at Gotha (at the present time Herr Liebetrau) requests that any person intending to conduct a cremation at Gotha shall forward to him in advance a sufficient sum to cover all expenses. The amount considered necessary to meet all charges that can possibly be incurred is 170 mk. when the usual religious ceremony is desired, and 130 mk. when no service is required. The unexpended balance of the sum deposited in advance will be returned as soon as possible to the person who makes the payment. Tin cases for the transport of ashes, and urns of different sizes for their preservation, are kept ready at the crematorium.

It is the desire of the Town Councillor that the following points shall be particularly noted by persons not residing in Gotha:

(1) Bodies of persons dying without the jurisdiction of Gotha must not be despatched to that place until the Town Councillor has received the official certificates of the cause of death. Provided that 1 mk. 20 pf. is sent to defray the cost of the telegram, permission to send on the body will be telegraphed to the person who makes the application.

(2) The body intended for cremation must be accompanied by a written railway-pass, issued by the competent authorities.

(3) The bodies of persons dying at a distance and brought by rail to Gotha will, if notice of their coming be received the day before their arrival, be met at the station by the hearse and be taken therein to the cemetery, the cremation taking place at noon on the following day.¹

¹ Prospectus of the Gotha Crematorium, issued June 1881, with notes of subsequent arrangements, supplied by Herr Liebetrau, the Town Councillor superintending the conduct of cremation at Gotha.

IV.

CREMATION IN HEIDELBERG.

THE cremation establishment in the cemetery at Heidelberg was opened on the 23rd of December 1891. It may be used by residents as well as non-residents, but its use is dependent upon certain police regulations being fulfilled, of which we give the principal ones, together with the charges. The Heidelberg Cemetery Commission keeps forms for the attestations required under § 2, 1-2, which are sent by return to interested parties; with regard to § 2, 4, it should be noted that the additional words on the pass for the body "for cremation" are insufficient.

I. *Extract from the Local Police Regulations.*¹

§ 2. The cremation of a body may only take place after the written authorisation of the district officer, representing the local police authorities, has been obtained, without prejudice to the general regulations relating to the previous inspection of the body by the Medical Officer² and the transport of the body.

The following documents are required for the

¹ Reprinted from *Phoenix*, No. 2, February 1892.

² Official Medical Examiner appointed to inquire into the cause of death in all cases.

application for the authorisation which is to be sent to the President of the Cemetery Commission, or made verbally :

1. An attestation delivered by the competent authorities to the effect that the entry has been made in the official register of deaths (§ 55 ff. of the Imperial Law of the 6th of February 1875); for persons dying out of the German Empire, a certificate of death officially authenticated.

2. (a) A medical report on the decease for the particular case, written by a recognised doctor and officially authenticated.

(b) A certificate delivered by the sanitary officer of the place of death, or by the Grand Ducal District Medical Officer for Heidelberg, stating that the inspection of the body conducted by him has removed all suspicion of violent death. And

(c) If an autopsy has taken place, also a report made and legalised in the same manner.

In all these documents (*a, b, c*) the cause of death must be stated as clearly as possible

3. A legalised statement containing the proof that the deceased—

(a) Has expressed the wish to be cremated ;
or

(b) In the case of incapacitated persons or of persons under eighteen years, that those upon whom the duties of conducting the funeral devolve, wish for the cremation.

In the cases referred to under No. 3 (b) the authorisation for cremating can only be granted if following upon a previous autopsy by a Government

doctor, a certificate is produced to the effect that all suspicion of violent death has been removed.

4. In the case of persons having died in foreign parts an additional attestation stating that the proposed cremation of the body was notified to the police authorities of the place of death.

§ 3. The Cemetery Commissioners communicate the application, with all the documents, together with their own opinion, to the District Officer, who before giving his decision must ascertain from the Grand Ducal District Medical Officer whether the cause of death as stated in the documents is clearly a perfectly natural one.

If in the opinion of the Grand Ducal Medical Officer there is any doubt on that point, then the District Officer may leave it to the relatives of the deceased to have the autopsy effected by the Official Doctor, for the purpose of removing the suspicion, and to lay before him the result.

If the result of the autopsy, according to the Grand Ducal Medical Officer's opinion, does not completely remove the doubt as to the cause of death, then the permission for carrying out the cremation shall be declined by the District Officer.

§ 4. If there exists any suspicion of violent death (including suicide and accidents) the mode of procedure is subject to the regulations observed in cases of violent death. The cremation under such circumstances cannot take place.

§ 5. If the authorisation is granted, the District Official delivers a written certificate to the relatives who have made the application, and informs the Grand Ducal Medical Officer and the Cemetery Commissioners of the fact that he has done so.

§ 6. The bodies of persons who have died in foreign parts that are to be sent here for cremation, can only be transferred after the official authorisation for cremation required under § 2 *et seq.* of these regulations has been granted.

§ 8. With regard to the cremation itself, the following rules are to be observed :

(a) The size of the coffin which must be made of soft wood and must not be provided with any metallic ornaments, is not to exceed the following dimensions :

Length	.	.	2'25 metres.
Width	.	.	0'75 „
Height	.	.	0'72 „

§ 9. The ashes, which, according to the wish of the mourners, are placed in closed wooden cases, in receptacles of burned clay, or in soldered tin boxes, may either be buried in the cemetery or be kept above ground in the same place, or be taken care of by the mourners.

II. *Cremation Charges.*¹

The following charges for cremation, together with the additional expenses, have been fixed by the Town Councillors :

The transfer of a body from the railway station to the crematorium	M.
	30
If the body is brought to the town mortuary for any length of time this tax is raised by	20
The cremation of a body, with all the arrangements necessary for the purpose, up to the handing over of the ashes or the burying of the same in the public cemetery reserved for that purpose	25

¹ Reprinted from *Phoenix*, No. 1, March 1892.

	M.
Each cremation directly following	10
In this case the expenses for burying are divided.	
A small case of wood	1.50
A small capsule of tin	1.50
A simple sarcophagus of burned clay	
An ornamented sarcophagus of burned clay .	10
One made of majolica	15

Cemetery charges.—For the reception of ashes, family graves of 1.20 m. long by 0.80 m. are granted at the following rates:

(a) In the first or second row, one grave	50
Each additional grave	40
(b) In the other rows, one grave	40
Each additional grave	30

Further, the rules (a) to (h) are applicable to graves for ashes.

In each family grave (i) the remains of four persons may be buried within forty years, under the rules stated in (i); and in the family graves of the class (a) the remains of ten persons.

In a family grave of the class (a) already occupied, the cremated remains of eight persons more may be buried within the same period; but if this is done, the grave cannot be preserved for the burial of another body.

Also for the graves for ashes in family tombs the duration of the period of consecration is fifteen years.

USE OF THE CEMETERY.

(a) For burying non-residents (see § 23 of the regulations for bodies and burials).	M.
For adults	50
For children under 15 years	25

	M.
(b) For burying the cremated remains of non-residents	25
For each additional person	25
In the case of the burial of the ashes of a non-resident shareholder, or his wife, or his children, in an urn-niche in the cremation hall, this charge is not made.	
The burial of ashes for one person in a family tomb	5

CONTRIBUTIONS TO THE LIQUIDATION OF THE BUILDING EXPENSES OF THE CREMATION ESTABLISHMENT.

The following amounts are not paid into the cemetery account, but into the sinking fund, out of which a number of shares, determined by ballot, corresponding to the amount accruing from this source, are yearly paid off. After the complete liquidation these charges are discontinued.

1. For each burial :	M.
(a) For residents	20
(b) Non-residents	40
The Town Council is empowered in the case of persons of small means to remit the payment of these charges upon stated grounds.	
2. For the right of using an urn-niche twenty years	40
To shareholders, or their wives or children, they are given free as long as there are niches remaining unoccupied.	
3. For a marble tablet with screws	15

III. *Hints to Persons intending to hold a
Cremation at Heidelberg.*¹

It is advisable to draw the attention of those who wish to carry out cremation to the following points in particular :

1. The application, together with a certificate as prescribed under § 2 of the local police regulations, should be to the President of the Cemetery Commission at the Town Hall of the place.

2. Immediately after the death of the person to be cremated has taken place—or, still better, before—the forms used for the certificates should be obtained. The latter may be obtained at all Town Hall offices in the towns of Baden, or from the representatives of the different cremation associations in the towns out of Baden, or from the Cemetery Commission and the Free Association for Cremation in Heidelberg. (Address, Town Councillor Limbach.)

3. Together with the required form, application should at once be made to the doctor who has attended the deceased for an account of the illness, and to the Medical Officer of the district for inspection of the body before it is dressed, and for obtaining the required certificates.

4. The death certificate, which, in the case of the holding of a religious ceremony, should be given in duplicate, and the attestation for the notice given the district office for the proposed cremation in Heidelberg, should in no case be omitted from the papers.

¹ Reprinted from *Phoenix* No. 4, April 1892.

5. Bodies can be brought here only if the authorisation for cremation has been granted. Telegraphic reply is given if the sum of 1.20m. for the telegram is sent together with the application.

6. The transfer should be arranged in such way that the body may arrive in the forenoon in order that the cremation may take place on the same day.

INSTRUCTIONS FOR THE CONDUCT OF CREMATIONS IN ZÜRICH.¹

I. *Information.*

INFORMATION of every cremation intended to be carried out in Zürich must be given to the Secretary of the Town Cemetery Commission (Town Hall, Zürich).

This official, upon ascertaining as far as possible the wishes of the relatives, fixes the *time* of the funeral.

II. *Documents to be presented.*

Simultaneously with the information, the following deeds must be laid before the Cemetery Commission :

1. An officially authenticated deed, in which the deceased distinctly expresses his desire to be cremated.

Exception to this rule may be made when three persons solemnly assert that the deceased had expressed to them the wish to be cremated. This assertion can be made either before the Secretary of the Cemetery Commission, or in a written declaration in an officially authenticated deed.

2. *For persons dying in the Canton of Zürich*, a certificate of the Official Medical Examiner of the

¹ Reprinted from *Phoenix*, No. 8, August 1892.

district declaring that there is no obstacle in the way of cremation.

Before the Medical Examiner can make this declaration, there must be submitted to him—(a) the official funeral certificate; (b) an account of the illness [preceding death] by the doctor in attendance. If this account leaves any doubt as to the cause of death, the Medical Examiner can himself conduct an inquest, and, if necessary, insist on a *post-mortem* examination.

For persons dying without the canton of Zürich, a deposition of the local authorities of the place of decease to the effect that there is no reason why a cremation should not be proceeded with.

Minors and lunatics come under No. 1 of these instructions. At the deaths of such persons, their mode of entombment is determined by those who have the conduct of their funerals.

Membership of the Zürich Cremation Society alone does not furnish sufficient proof of the will of the deceased. In order to ensure cremation, it is of the highest importance that there should be an authenticated testamentary request, and only under these circumstances is the intervention of the society for the purpose of carrying out the cremation permissible.

III. *The Funeral Commissioner.*

To provide for and superintend cremations, the Society has appointed a Cremation Commissioner (at the present time, Hermann Brunner, Zürich), who, in conjunction with the Secretary of the Cemetery Commission, imparts all necessary information and conducts cremations on behalf of this Society.

IV. *Size and Material of the Coffin.*

The size of the coffin must not exceed the following dimensions: Length, 2 meters; width 0·70 meters; height, 0·45 meters. In order that the lid shall not be too high, it is necessary that the body of the coffin should be rather broad.

Bodies will be burnt only in wooden coffins. For bodies brought from without Zürich, the inner coffin must be of wood (deal, or, better still, poplar). It is necessary to have wooden nails instead of iron ones, and no metal attachments.

The body should not be embedded in ashes or coals, but in sawdust or shavings.

Bodies brought from a great distance from Zürich should be embalmed.

The embedding of bodies in any but suitable coffins cannot be undertaken.

We refuse all responsibility in regard to the conduct of a cremation when the conditions, herein set forth for the construction of coffins and embedding of bodies, are not fully complied with.

V. *Transport to the Cemetery.*

For the transport of a body from the residence of the deceased, or from the railway station to the central cemetery, the relatives must make arrangements with a burial society. The transport to the crematorium is charged for through the Zurich Burial Society, at the rate fixed for interments.

VI. *Funeral Ceremonies.*

When the relatives desire a ceremony in the crematorium, they must themselves provide for the conduct of it, and the Cremation Commissioner must communicate with the Secretary of the Cemetery Commission.

VII. *Conduct of the Cremation.*

The cremation, as well as the disposal of and delivery of the ashes, takes place under the direction of the Commissioner of the Cremation Society, or one of the members of the Society's commission.

Upon the arrival of the funeral procession in the crematorium, the coffin is placed on a table before the receiving-chamber, and by means of a mechanical contrivance is passed thence into the receiving-chamber, whereupon the incineration immediately begins.

During the incineration the mourners are allowed to remain within the crematorium.

The watching of the cremation through the opening provided for that purpose, or through the opening in the door of the furnace, can only be allowed by agreement between the nearest relatives of the deceased and the superintendent of the cremation.

VIII. *Disposal of the Ashes.*

It will be the rule to take the ashes from the furnace upon the morning following the cremation, and to place them in the urns provided for the purpose, which shall be closed and soldered.

The urns can be made to any design chosen by the relatives of the deceased.

Urns, to be deposited in niches in the crematorium, must not exceed the following dimensions: Length, 0.45 meters; width, 0.32 meters; height, 0.27 meters; The Cremation Society keeps a stock of urns of this kind, as well as cases for the transport of ashes to distant parts.

IX. *Preservation and Destination of Ashes.*

Ashes to remain in Zürich can be disposed of in the following ways:

1. In niches in the interior of the crematorium for a period of twenty years. After the expiration of this period, the relatives are at liberty to take the urns into their own keeping.

2. In various urn-cemeteries for the period of twenty years.

3. In a private grave in the central cemetery. In exceptional cases the ashes can, by the specific request of the next of kin and with the consent of the Cemetery Commission, be deposited in other cemeteries in closed and sealed urns.

X. *Inscriptions.*

In the case where an urn occupies a niche in the crematorium, the inscription, after consultation about the wording with the relatives, will be designed after the patterns of writing and arrangement exhibited by the Cremation Society, at the cost of the heirs.

Members of the Zürich Cremation Society have both tablet and inscription provided gratis.

XI. *Fees.*

Francs.

Cremation fees to be paid down :

- (a) Cremation including use of the apparatus for
- | | |
|--|-----|
| 1. Members | 90 |
| 2. Non-members dying in the canton of Zürich | 110 |
| 3. Non-members dying in other parts of Switzerland | 130 |
| 4. Non-members dying abroad | 180 |
- (b) For an urn-niche in the interior of the crematorium, in accordance with the regulations, for a period of twenty years 10
- (c) For use of a plot (1 metre $\times$ 40 metres) in the cemetery of the crematorium, for twenty years 50
- (d) For those dying in foreign parts, various extra charges are fixed by the Cemetery Commission in accordance with the regulations of the Town Council.

XII. *Admittance to the Crematorium.*

To non-members admittance is permitted in the afternoons, on presentation of an entrance-card and payment of 1 franc per person.

Members of the Cremation Society have, on production of their cards of membership, free entry for themselves and any accompanying friends.

The nearest relatives of those persons whose ashes rest in the crematorium are given several cards entitling them to free admission.

XIII. *Membership.*

A member of the Cremation Society can be a person of any trade or profession who makes a declaration in writing of his entering the Society, and who either gives, on joining, a donation of not less than 30 francs, or who pays an annual subscription of not less than 2 francs.

On behalf of the Committee of the Cremation Society :

The President : Dr. AB. HEIM, *Prof.*

The Secretary : Dr. ENG. CURTI.

ZÜRICH, *March* 1890.

V.

REGULATIONS

OF THE UNITED STATES CREMATION COMPANY (LIMITED),
GOVERNING INCINERATION.

I. APPLICATIONS for incineration must be made at the office of the Company, No. 62 East Howston Street, New York City.

II. Each application must be made by the person having charge of the disposal of the body, or his representative ; a blank form prepared by the Company must be filled out and filed in the office of the Company.

III. On the filling out of said application blank, payment of the incineration fee, and presentation of the physician's certificate, stating time, place, and cause of death, an order directing the incineration will be given the applicant. To this order the undertaker in charge of the body must have attached the customary certificate of the Board of Health, and such other permits as may be pre-requisite to a lawful interment in the State of New York and the township and country where the Crematory is located.

Upon the arrival at the appointed hour of the remains at the Crematory, this order, with the said certificate and permits attached, must be delivered to

the Superintendent. This rule is imperative, and unless the order is accompanied by the necessary certificate and permits in due form, the incineration will not be allowed to take place.

IV. Every incineration shall be attended by some relative of the deceased, or representative of the family.

V. The price of incineration is \$35, always payable in advance.

VI. The body may be conveyed to the Crematory in such a manner as the friends of the deceased may select. Where desired, the Company will convey the body to the Crematory, at an expense not exceeding the usual charge for like service.

VII. No special preparation of the body or clothing is necessary. The body is always incinerated in the clothing as received.

VIII. It is expected that the funeral services will terminate prior to the removal of the body to the Crematory ; but where desired, ceremonies or services may be held at the Crematory in connection with the incineration, without any extra charge.

IX. The coffin in which the body is carried to the Crematory is never allowed to be removed from the building, but is burned after the incineration.

X. In every instance of death from contagious disease the coffin will be burned with the body, and no exposure of the body will be permitted.

XI. Incineration may be as private as the friends of the deceased desire. On the day following the incineration the ashes will be deliverable at the office of the Company, in a receptacle provided by it free of cost.

XII. On one day's notice, bodies coming from a

distance will, on their arrival in New York or Jersey City, be received by the Company's undertaker, who will procure, where the relatives desire it, the necessary permits and take complete charge of all arrangements.

Further information can be obtained on application, personally or by letter, at the Company's office in New York City.

VI.

Official Instructions issued by the Cremation Society of England.—Method of Procedure in Investigating the Cause of Death in France.

I.

THE Cremation Society of England was formed to promote the objects set forth in the following declaration : Objects of Society.

“ We disapprove the present custom of burying the dead, and desire to substitute some mode which shall rapidly resolve the body into its component elements by a process which cannot offend the living, and shall render the remains absolutely innocuous. Until some better method is devised, we desire to adopt that usually known as cremation.”

The conditions of membership are :

- I. Adhesion by signature to the above declaration.
- II. The payment of an annual subscription of one guinea, or a single payment of ten guineas.

II.

GENERAL INSTRUCTIONS.—The crematorium, which is the only one in use in England, is situated in the parish of St. John's, two and a quarter miles from Woking station on the main line of the London and South-Western Railway, which is in communication

with all the railway systems having termini in London. In the event of a body having to be brought from a distance, any of the companies will provide a special carriage on the usual notice being given, and convey direct to Woking, where the use of a hearse can be obtained for conveyance to the crematorium.

The buildings comprise a handsome chapel, communicating with which are the crematorium and comfortable waiting and retiring rooms. The lodge at the entrance to the grounds is occupied by the Society's attendant, who will show inquirers over the premises daily between ten and five, unless a cremation is proceeding or about to take place.

The arrangements for cremating a body are available to the public on the following conditions :

Conditions
on which
cremation
may be
performed.

1. An application in writing must be made by the executor or nearest friend of the deceased—unless it has been made by the deceased person himself during life—stating that it was the wish of the deceased to be cremated after death, or that he entertained no objection thereto.
2. Two certificates from duly qualified medical men are required relative to the cause of death, one at least of whom must have attended the deceased. These the Society obtain direct, and it is therefore necessary, in making application for cremation, that their names and addresses be given in full.

These must satisfy the Council of the Society, or their representative, and in some rare or doubtful case an autopsy might be desirable.

III.

DIRECTIONS FOR ARRANGING CREMATION.—Immediately on death, notice thereof, with the names and

addresses of the two medical men, should be sent to the office of the Society [8 New Cavendish Street, Portland Place, W.], the address of which can be found in the London Directory, or a letter or telegram addressed to the Cremation Society, London, W., will be at once forwarded to the office by the postal authorities, after which the local undertaker should be instructed to supply a suitable shell—the best material being light pine.

It cannot be too clearly understood that it is most undesirable to encase the body in a heavy or costly coffin; *a light pine shell is the best receptacle for the purpose of cremation.* There is no reason why for the funeral service a simple shell should not suffice, and it may be covered with cloth at very small expense, if preferred. When, however, it is intended to hold a funeral service in public and with some degree of ceremony, before cremation, a more ornate coffin may be used if desired, but it should contain the shell described, which can be afterwards removed.

Upon receiving notice of the death, the application-form is sent to be filled in by the executor or the nearest relative of deceased, and this should be returned to the Society with the sum of £6, the charge for the cremation, services of attendant, use of chapel and waiting-room, as well as a simple urn for the preservation of the ashes. At the same time the applicant must state if it be desired that the local clergyman (who has kindly consented to act when desired) should officiate at the funeral service in the chapel, as, in the event of his services being required, a fee of one guinea must be paid to him direct at the time. Any other person appointed by the friends may take the service if preferred.

No heavy
coffin to be
used.

Form of
application.

The medical forms.

In the meantime, our form of medical certificate has been sent to the medical attendant of the deceased, who, after filling in and signing it, must forward it to the other medical practitioner, and each receives express instructions in relation to his duty. If the latter is also satisfied that the statements made relative to the cause of death are correct, and that there are no circumstances likely to render exhumation of the body necessary, he will certify to that effect.

The cremation, if the death has occurred in London or the suburbs, usually takes place on the third day after the day on which notice is given at the Society's office. If the remains are lying in the country, the cremation would take place a day later.

The most convenient times for cremation are as follow :

Train leave Waterloo.	Hour for Cremation.
9.30 A.M.	11 A.M.
11.45 A.M.	1.30 P.M.
2.45 P.M.	4.15 P.M.

Upon the arrival of the body at the crematorium, if there is a funeral service, it is at once proceeded with, at the conclusion of which the undertaker and his assistants convey the remains into the crematorium, where they may be followed by one friend of the deceased ; but no inspection of the process is on any account permitted. The operation usually occupies about one hour and a half to two hours, at the conclusion of which the ashes are gathered together by the Society's officer and placed in an urn for preservation. Scrupulous care is taken to maintain them intact and pure for this purpose.

No inspection of process permitted.

The urn and its destination.

The urn containing the ashes may be left in one of the niches in the chapel for one calendar month from

the date of the cremation, free of charge, to enable the friends to secure a suitable permanent resting-place; if it be left beyond that time, a fee of five shillings per month is required, but the Society will not be responsible for it beyond one year from the date of cremation, unless special arrangements for permanent deposit there are made.

For this purpose the Society has provided ornamental stone niches, constructed within the building, which can be acquired, according to their size, as a "single tomb" or "family vault," and is about to provide increased space, for the purpose of preserving the ashes.

The price charged for these niches can be obtained on inquiry at the office.

For those who desire the ashes to be buried in the grounds of the crematorium a special portion has been railed off and cultivated, in which an urn can be buried for the fee of one guinea, within a given space, and preserved intact.

May be
buried in the
grounds.

IV.

This form is prepared to enable those who prefer cremation to burial to record in precise terms their wishes and directions in relation thereto.

Form for
recording
desire to be
cremated.

This form should be signed, dated, and witnessed in duplicate. One copy should be deposited with the signer's executor or next of kin, and the other sent to the Secretary of the Cremation Society of England, by whom it will be preserved and regarded as confidential.

I hereby express to my survivors my earnest desire that on my decease my body shall be cremated according to the system employed by the Cremation Society of England, and under the arrangements made by the Society for the purpose.

Signature _____

Address _____

Date _____

Witnessed by

_____ *Signature.*

_____ *Address.*

_____ *Date.*

N.B.—*It should be borne in mind that the above is only a request, and cannot be enforced against any person. It is therefore very necessary that the executor or executors should, at the same time, express their willingness to carry these instructions out.*

V.

Payment
during life
to ensure
cremation
after death.

Attention is called to the following "Minute of Council" which has been recently passed:

"In the event of any person desiring, during life, to be cremated at death, the Society is prepared to accept a donation from him or her, of ten guineas, undertaking in consideration thereof to perform the cremation, provided all the conditions set forth in the forms issued by the Society are complied with."

In consideration of the above payment the Cremation Society undertakes—on the decease of a subscriber—also to send an agent when required, without further charge, to the family residence, if within twenty miles of Charing Cross, for the purpose of supplying information and making all the necessary arrangements. By this means survivors, who may

naturally anticipate considerable difficulty in complying with the request on the part of the deceased to be cremated, may be spared all trouble and anxiety as to the manner of carrying it into execution. When the distance is more than twenty miles, information will be supplied by letter, or an agent sent for a very moderate charge.

All necessary forms, ready for filling up, can be obtained on application at the Society's offices, No. 8 New Cavendish Street, Portland Place, W.

J. C. SWINBURNE-HANHAM,

Hon. Sec.

January 1891.

FORMS NECESSARY TO BE DULY FILLED
UP WHENEVER CREMATION IS
DESIRED.

FORM No. 1.

APPLICATION FROM EXECUTOR OR THE NEAREST
RELATIVE OF DECEASED.

I, (Name)_____

(Address)_____

(Occupation)_____ hereby request
the Cremation Society of England to undertake the crema-
tion of the body of _____
and I certify that the deceased expressed no objection
(orally or in writing) to being cremated after death.

Medical certificates of the cause of death are or will be
forwarded.

(Signature)_____

IMPORTANT.—This form, when filled in, is to be returned
to the Office of the Cremation Society, the address of the
medical man who has attended the deceased being required
as *soon as possible*.

Note.—When no medical certificate is enclosed, an autopsy
must be made and certified by a medical officer appointed
by the Society, and at the expense of the applicant or of
the estate of the deceased.

FORM No. 2.

MEDICAL CERTIFICATES OF THE CAUSE OF DEATH.
TO THE CREMATION SOCIETY OF ENGLAND.

CERTIFICATE
No. I.

(Address) _____

I hereby certify that I attended

(Name) _____

(Address) _____

(Profession or Occupation) _____

aged _____, that I last saw h _____ on _____ 18

that _____ he died on _____ at _____

and that the cause of death was as hereunder written.

Cause of death.	Time from attack till death.
(a) First.	*
(b) Second.	*

The Medical Attendant will sign here.

Signed _____

Prof. title _____

Address _____

Date _____

* The time for each form of disease or symptom is reckoned from its commencement.

This Certificate must be signed by a Registered Medical Practitioner.

CERTIFICATE

NO. II.

I certify that I have, in relation to the expressed desire that the deceased should be cremated, carefully and separately investigated the circumstances connected with the death. I declare that there are no circumstances connected with the death which could, in my opinion, make exhumation of the body hereafter necessary.

Signed _____

Prof. title _____

Address _____

Date _____

The second Medical
Man will sign here.

This certificate must be signed by another Registered Medical Practitioner.

The Cremation Society reserves to itself the right of refusing to carry out Cremation in any case without assigning reason.

ESTIMATE OF EXPENSES

Connected with the conveyance of a body from London
—that is to say, from any part not distant more
than four miles from Charing Cross—to the
Crematory, Woking.

	£	s.	d.
For a pine shell with ordinary lining .	1	10	0

N.B.—More expensive shells and coffins can be provided, but the Society strongly recommends the simplest form for the purpose of cremation only.

When required for service in church also, it may be covered in black, or colour, from two guineas upwards. An ornate coffin may be employed for this purpose, provided the body occupies a shell, to be removed for cremation afterwards.

Delivery of shell at residence within limit named, with attendants	0	15	0
Hearse, driver, and man in charge from the residence to Woking, about thirty miles	5	10	0
Men's attendance at residence, to place body in hearse, if required	0	15	0

N.B.—If the shell is sent and the body is removed to the hearse at the same time, this charge is not incurred.

£8 10 0

	£	s.	d.
If the hearse and horses are sent by rail —which saves much time, and is often convenient for those who desire to attend—including one man besides the driver, an extra guinea is incurred	1	1	0
For each additional man to the above named for removing the body at Woking, as may be necessary, whether sent by road or rail	0	15	0

N.B.—The above-named terms are those charged by well-known firms of undertakers at the West End of London.

OFFICES OF THE CREMATION SOCIETY
OF ENGLAND,

8 New Cavendish Street, Portland Place.

THE FORMS ADOPTED IN FRANCE,

And invariably filled up by the officers appointed, in every case of death occurring either in Paris or in the Departments before burial or cremation is permitted.

Form No. 1 is sent by the municipal authority to the official medical examiner, requiring him to verify the fact of the cause of death.

Form No. 2 is the certificate which, after examination of the body, the medical examiner leaves with the family, who send it to the municipal authority. Permission to bury can then be obtained.

Form No. 3 is the record which is made by the medical examiner and preserved by the authorities.

FORM No. 1.

PRÉFECTURE DE LA
SEINE

REPUBLIQUE FRANÇAISE.

LIBERTÉ, ÉGALITÉ, FRATERNITÉ

SECRÉTARIAT GÉNÉRAL

VILLE DE PARIS.—MAIRIE DU _____^{me} ARRONDISSEMENTDIRECTION
des

NOUS, MAIRE DU _____ ARRONDISSEMENT DE PARIS,

AFFAIRES MUNICIPALES

2^e Division.—3^e Bureau.

Vérification de Décès

MANDAT DE VISITE

N^o DU CARNET _____

Vu la déclaration qui nous a été faite à _____ heure, _____ minutes
 du _____, le _____ et d'après laquelle M. _____
 prénoms _____ épon ou veu de _____
 âgé de _____ profession _____ serait décédé des suites
 de _____ au _____ étage d'une maison sise _____
 n^o _____ à _____ heure _____ minutes du _____
 le _____

Déléguons M. _____, docteur en médecine, à l'effet de se
 transporter dans la dite maison, de se faire montrer le corps non vêtu,
 de constater le décès et d'en indiquer les causes.

A Paris, le _____ 188____, à _____ heure d _____

Cachet de la Mairie Signature:

*Le présent mandat doit être conservé par le médecin
 de l'Etat civil.*



FORM No. 2.

CERTIFICAT DE DÉCÈS
—^e ARRONDISSEMENT

*Le présent certificat doit être laissé à la famille et rapporté à la
Mairie pour l'établissement de l'acte de décès.*

N^o DE L'ACTE : _____

Je soussigné, docteur en médecine, en vertu du mandat délivré par le Maire, certifie avoir fait la visite du corps de la personne désignée audit mandat, et avoir constaté ou recueilli sur place, à l'aide des indications fournies par _____, les renseignements suivants :

État civil du décédé...	Nom _____
	Prénoms _____
	Sexe _____ âgé de (ou mort-né) _____
	Célibitaire _____
	Marié à _____ veu de _____
	Né à _____ département d _____
Filiation.....	Fil de _____
	Et de _____

FORM No. 2.—Continued.

Profession _____ (patron ou ouvrier) _____

Est décédé le _____ 18____, à _____ heure du _____

Rue _____ N° _____

Nom et demeure du médecin traitant _____

" " du pharmacien _____

Je déclare que le décès est constant et paraît avoir été causé par _____

Fait à Paris, le _____ 188____, à _____ heure du _____

Signature :

Je déclare, en outre, avoir constaté la nécessité
de prescrire la mise en bière d'urgence à raison
de _____

et avoir délivré une réquisition à cet effet
(ce paragraphe doit être rayé lorsqu'il n'y a pas
eu réquisition et que la Mairie doit pourvoir aux
mesures à prendre).

Signature :

Le logement est-il insalubre ? _____

FORM No. 3.

REPUBLIQUE FRANÇAISE,
LIBERTÉ, ÉGALITÉ, FRATERNITÉ.

SECRÉTARIAT
GÉNÉRAL

PRÉFECTURE DE LA SEINE.

Service de la
Statistique
municipale

VILLE DE PARIS.—MAIRIE DU
ARRONDISSEMENT.

D E C È S

NOTICE STATISTIQUE IMPERSONNELLE

A remplir en même temps que le certificat de visite, et à
déposer à la Mairie.

N° DE L'ACTE :

NOTA.—Le médecin de l'Etat civil peut biffer les mots con-
traires au cas qu'il a sous les yeux, ou écrire oui ou faire une
croix après le mot conforme. Il est prié d'écrire le nom de la
profession exercée, en faisant suivre ce nom d'un *o*, s'il s'agit
d'un ouvrier, ou d'un *p*, s'il s'agit d'un patron, et aussi de
mettre un *x* à la suite des questions auxquelles il ne peut
répondre. Le degré de salubrité est *apprécié* et non *demandé*.

Mois d _____ 188 _____

ADULTES ET ENFANTS AGÉS DE 5 ANS ET AU-DESSUS.

État civil.	{	Sexe du décédé _____
		Célibataire _____
		Marié _____
		Date ou durée du mariage _____
		Veuf _____ et depuis quand ? _____
		Agé de _____
Dém.	{	Né à _____
		Département d _____
		Date du décès : le _____ du mois d _____
Demeure.	{	Quartier _____
		Rue _____ N° _____
		_____ étage.
		Salubre _____ insalubre _____

Dans le cas de mariage	{	Nombre d'enfants morts et vivants issus du mariage _____	
		Nombre d'enfants suivants _____	
		{	Oncle et niece _____
			Tante et neveu _____
			Cousins germains _____
		Issus de cousins germaine _____	
Profession	{	Du décédé { patron _____	
		{ ouvrier _____	
		De l'époux survivant { patron _____	
		{ ouvrier _____	
		Du père (patron, ouvrier) _____	
		De la mère (patronne, ouvrière) _____	
S'il s'agit d'un écolier	{	Est-il ?	interne _____
			externe _____
		Frequenté-t-il ?	un lycée _____
			un collège _____
			une école communale _____
			une école libre _____
Adresse de l'institution :			
Rue _____	n° _____		
Vacciné _____		non vacciné _____	

ENFANTS AU-DESSOUS DE 5 ANS.

État civil	{	Sexe du décédé _____	
		Légitime _____ illégitime _____	
		Reconnu	{ par le père _____
			{ par la mère _____
		Non reconnu _____	
		Âgé de _____	
Né à _____			
		Département d _____	
Date du décès ; le _____ du mois de _____			
Demeure	{	Quartier _____	
		Rue _____ n° _____	
		étage. _____	
		Salubre _____ insalubre _____	

Enfant au-dessous de 2 ans nourri	Au sein _____	
	Au biberon _____	
	Par allaitement mixte _____	
	Par la mère _____	
	Dans la famille par une nourrice _____	
Résidence de l'enfant	Hors de la famille _____	
	Enfant gardé dans la famille _____	
	La crèche _____	
	La salle d'asile _____	
	La garderie ou école enfantine Adresse de la résidence hors de la famille : Rue _____ n° _____	
État du père ou de la mère	Profession	Du père (patron, ouvrier) _____
		De la mère (pat ^{ne} , ouv ^{re}) _____
	Age	Du père _____
		De la mère _____
	Degré de parenté	Oncle et nièce _____
Tante et neveu _____		
Cousins germains _____		
Issus de cousins germains _____		
Vacciné _____ non vacciné _____		
Le décédé était-il premier né ? * _____		

MORT-NÉS ET ENFANTS MORTS AVANT LA DÉCLARATION
LE NAISSANCE.

Sexe _____	
État civil : légitime _____ illégitime _____	
Date de l'accouchement : le _____ du mois d _____	
Demeure	Quartier _____
	Rue _____ n° _____
	_____ étage.
Salubre _____ insalubre _____	
Mode d'ac- couche- ment	Naturel _____
	Artificiel _____
	Avec seigle ergoté _____

* Ce renseignement ne doit être demandé que pour les enfants au-dessous d'un an.

Mère: primipare _____ pluripare _____

Lieu de l'accouchement { Dans le famille _____
 Chez une sage-femme _____
 Chez un médecin _____
 Autre: (Hôpital, prison,
 hôtel meublé, voie pub-
 lique, etc.) _____

Durée de la gestation _____

A respiré pendant _____

N'a pas respiré _____

Nombre d'en-
fants déjà issus
du ménage
actuel { Garçon { Encore vivant _____
 Décédé _____
 Mort-né _____
 Fille { Encore vivante _____
 Décédée _____
 Mort-née _____

Nombre d'en-
fants déjà issus
de la mère au
cours de mén-
ages antérieurs { Garçon { Vivant _____
 Décédé _____
 Mort-né _____
 Fille { Vivante _____
 Décédée _____
 Mort née _____

État du
père et de
la mère { Profession { Du père (patron, ouvrier) _____
 De la mère (pat^{ne}, ouv^{re}) _____
 Age { Du père _____
 De la mère _____

État du
père et de
la mère { Degré { Oncle et nièce _____
 de { Tante et neveu _____
 parenté { Cousins germains _____
 Issus de cousins germains _____

Durée du mariage (en années) _____

Y a-t-il eu un { Nom et sexe _____
 accoucheur { Domicile _____

Maladie cause de mort _____

Correspondant au numéro _____ de la nomenclature (Voyez
au verso).

Cette maladie a-t-elle été { aigue _____
 chronique _____

Accidents terminaux _____
 Y a-t-il eu opération chirurgicale ? _____
 Nom et domicile du médecin traitant _____
 Le traitement a-t-il été effectué par le service des secours
 domicile ? _____
 Fait à Paris, le _____ 18____, à _____
 heure du _____

Cachet de la Mairie

Le médecin de l'État civil.

VU :



Le Maire du _____^e arrondissement,

The following schedule gives a very complete list of the various maladies or injuries among which the cause of death may in almost any case be found; the number corresponding thereto is employed to denote it in the record. Form No. 3 :—

NOMENCLATURE DES CAUSES DE DÉCÈS.

MALADIES GÉNÉRALES.

N° 1.—MALADIES ÉPIDÉMIQUES.

1. Fièvre typhoïde.
2. Typhus.
3. Scorbut.
4. Variole.
5. Rougeole.
6. Scarlatine.
7. Coqueluche.
8. Diphtérie et croup.
9. Grippe.
10. Suette miliaire
11. Choléra asiatique.
12. Choléra nostras.
13. Autres.

N° I.—AUTRES MALADIES GÉNÉRALES.

14. Infection purulente et septicémie.
15. Morve.
16. Farcin.
17. Pustule maligne et charbon.
18. Rage.
19. Fièvre intermittente.
20. Cachexie palustre.
21. Pellagre.
22. Tuberculose $\left\{ \begin{array}{l} a. \text{ des poumons.} \\ b. \text{ des méninges.} \\ c. \text{ du péritoine.} \\ d. \text{ d'autres organes.} \\ e. \text{ généralisée.} \end{array} \right.$
23. Scrofule.
24. Syphilis.
25. Cancer $\left\{ \begin{array}{l} a. \text{ de la bouche.} \\ b. \text{ de l'estomac, du foie.} \\ c. \text{ des intestins, du rectum.} \\ d. \text{ de l'utérus.} \\ e. \text{ du sein.} \\ f. \text{ de la peau.} \\ g. \text{ autres.} \end{array} \right.$
26. Rhumatisme.
27. Goutte.
28. Diabète (sucré).
29. Goître exophtalmique.
30. Maladie bronzée d'Addison.
31. Leucémie.
32. Anémie, chlorose.
33. Autres maladies générales.
34. Alcoolisme (aigu ou chronique).
35. Intoxications professionnelles.
36. Absorption de gaz délétères (suicide excepté).
37. Autres empoisonnements (suicide excepté).

MALADIES LOCALES.

N° 3.—MALADIES DU SYSTÈME NERVEUX ET DES
ORGANES DES SENS.

38. Encéphalite.
39. Méningite simple.
40. Ataxie locomotrice progressive.
41. Atrophie musculaire progressive.
42. Congestion et hémorrhagie cérébrales.
43. Ramollissement cérébral.
44. Paralysies sans cause indiquée.
45. Paralyse générale.
46. Autres formes de l'aliénation mentale.
47. Épilepsie.
48. Éclampsie (non puerpérale).
49. Convulsions des enfants.
50. Tétanos.
51. Chorée.
52. Autres maladies du système nerveux.
53. Maladies des yeux.
54. Maladies des oreilles.

N° 4.—MALADIES DE L'APPAREIL CIRCULATOIRE.

55. Péricardite.
56. Endocardite.
57. Maladies organiques du cœur.
58. Angine de poitrine.
59. Affection des artères, athérome, gangrène, sèche, anévrisme, etc.
60. Embolie.
61. Varices, ulcères variqueux, hémorroïdes.
62. Plébite et autres affections des veines.
63. Lymphangite.
64. Autres affections du système lymphatique.
65. Hémorrhagies.
66. Autres affections de l'appareil circulatoire.

N° 5.—MALADIES DE L'APPAREIL RESPIRATOIRE.

67. Maladies des fosses nasales.
68. Affection du larynx ou du corps thyroïde.

- 69. Bronchite aiguë.
- 70. Bronchite chronique.
- 71. Broncho-pneumonie.
- 72. Pneumonie.
- 73. Pleurésie.
- 74. Congestion et apoplexie pulmonaires.
- 75. Gangrène du poumon.
- 76. Asthme.
- 77. Autres.

N° 6.—MALADIES DE L'APPAREIL DIGESTIF.

- 78. Affections de la bouche et de l'arrière-bouche.
- 79. Affections du pharynx et de l'œsophage.
- 80. } Affections de { Ulcère de l'estomac.
- 81. } l'estomac { Autres affections de l'estomac (cancer
excepté).
- 82. } { Diarrhée infantile, athrepsie.
- 83. } { Diarrhée et entérite.
- 84. } Affections de { Dysenterie.
- 85. } l'intestin { Parasites intestinaux.
- 86. } { Hernies, obstructions intestinales.
- 87. } { Autres affections de l'intestin.
- 88. } { Ictère grave.
- 89. } Affections du { Tumeurs hydatiques.
- 90. } foie { Cirrhose.
- 91. } { Calculs biliaires.
- 92. } { Autres affections du foie.
- 93. Péritonite inflammatoire (puerpérale exceptée).
- 94. Autres affections de l'appareil digestif.
- 95. Phlegmon de la fosse iliaque.

N° 7.—MALADIES DE L'APPAREIL GÉNITO-URINAIRE ET DE SES ANNEXES.

- 96. Néphrite.
- 97. Maladie de Bright.
- 98. Périnéphrite et abcès périnéphrique.
- 99. Calculs rénaux.
- 100. Autres maladies des reins et annexes.
- 101. Calculs vésicaux.
- 102. Maladies de la vessie.
- 103. Maladies de l'urètre (abcès urineux, etc.).
- 104. Maladies de la prostate.

- 105. Maladies du testicule.
- 106. Métro-péritonite.
- 107. Abscès du bassin.
- 108. Hématocèle péri-utérine.
- 109.

}	Maladies de	l'utérus	Mérite.
			Hémorrhagies (non puerpérales).
			Tumeurs (non cancéreuses).
			Autres maladies.
- 110.

}	Maladies de	l'utérus	Mérite.
			Hémorrhagies (non puerpérales).
			Tumeurs (non cancéreuses).
			Autres maladies.
- 111.

}	Maladies de	l'utérus	Mérite.
			Hémorrhagies (non puerpérales).
			Tumeurs (non cancéreuses).
			Autres maladies.
- 112.

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